

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 15694 of 2020

Arising Out of PS Case No.-38 Year-2019 Thana- KUMAR KHAND District- Madhepura

Md. Shamsher, aged about 32 years, Sex-Male, Son of Md. Rahman, Resident of Village - Rahta, P.S.- Kumarkhand, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Uday Chand Prasad, Advocate
For the State	:	Mr. Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 15-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Uday Chand Prasad, learned counsel for the petitioner and Mr. Dinesh Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with Kumarkhand PS Case No. 38 of 2019 dated 06.03.2019 instituted under Sections 302, 201, 376D/34 of the Indian Penal Code.

4. The allegation against the petitioner, along with his two brothers and parents, is of killing the daughter of the informant.

5. Learned counsel for the petitioner submitted all five members of the family have been made accused due to land dispute. It was submitted that though in the FIR, it has been stated that at 8:00 PM, the deceased had made a call to her mother and



disclosed that the family of the petitioner had surrounded her and she had expressed her apprehension that she may be killed, but the CDR of her mobile, which has been obtained by the Investigating Officer, does not show that the same is true and rather it shows that the deceased had talked to her husband on that day between 6:09 PM to 6:12 PM. Learned counsel submitted that there is no eye witness of the occurrence and chargesheet has been submitted only under Sections 302, 201/34 of the Indian Penal Code. It was further submitted that identically situated full brother of the petitioner, namely Md. Firoz @ Sakim, has been granted bail by a co-ordinate Bench on 05.06.2020 in Cr. Misc. No. 6143 of 2020. It was submitted that in the said case, the Court had called for the copy of the case diary and having assistance from the same, has granted bail. It was further submitted that the petitioner has no other criminal antecedent and is in custody since 21.09.2019.

6. Learned APP submitted that the allegation against the petitioner is of being party to the death of the daughter of the informant. However, he did not controvert the fact that allegation against co-accused Md. Firoz @ Sakim is identical.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs.



25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Madhepura in Kumarkhand PS Case No. 38 of 2019 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P.Kumar/Anand Kr.

AFR/NAFR	
U	
T	

