

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20428 of 2020

Arising Out of PS. Case No.-493 Year-2019 Thana- KHAJEKALA District- Patna

Abid Hussain Son of Hasan Alam Resident of Islampur Takiya, Police Station-Islampur, District-Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Lakshmi Kant Sharma

For the Opposite Party/s : Mr.Jitendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-07-2020 The matter has been taken up through virtual Court proceeding.

Since the physical court proceeding is non-functional due to the present pandemic COVID-19, the matter is listed with defects.

Learned counsel for the petitioner undertakes to remove the defects within three weeks of the resumption of the physical Court proceedings.

In case of non-removal of the defects within the undertaken time, the office shall place the matter before the bench.

Heard learned counsel for the petitioner and



learned counsel for the State.

The petitioner is languishing in custody since 09.12.2019 in a case registered for the offence punishable under Sections 326, 307 and 34 of the Indian Penal Code, 1860 and subsequently Section 302 I.P.C was also added vide order dated 15.11.2019.

The prosecution case as per the fardbeyan of Farzana Khatoon recorded by S.I. Srikant Kumar on 14.11.2019 at 11:30 A.M. is to the effect that brother of the informant Md. Rizwanul was teacher in a Government Urdu Middle School, Nauzar, Katra who was residing with his wife on rent in the house of Quasim. On 14.11.2019 at 10:00 A.M., she received information that something has happened to her brother and when the informant went to the rented house of her brother, she came to know that neighbouring people have taken her brother to PMCH, Patna for treatment and when the informant entered into the house of her brother, she found blood stains in an adjacent room and bathroom of



her brother's house. The neighbouring people conveyed the informant that in the room adjacent to her brother's room, the petitioner and co-accused Md. Shehjad were residing and since her sister-in-law (Bhabhi) had illicit relationship with the petitioner which was opposed by the informant's brother, the petitioner, co-accused Md. Shehjad and sister-in-law (Bhabhi) of the informant might have assaulted and killed the brother of the informant.

It is submitted by learned counsel for the petitioner that there is no eye witness to the alleged occurrence. The house owner and other neighbouring people only saw the petitioner fleeing away from the place of occurrence. It is further submitted that wife of the victim co-accused Kahkasha Parween has been granted bail by a Co-ordinate bench of this Court vide order dated 21.12.2019 passed in Cr. Misc. No. 1274 of 2020.

A statement has been made in para 3 of the



petition that petitioner is not having any criminal antecedent.

Learned counsel for the informant submits that since petitioner had illicit relationship with the wife of the victim, hence he, in connivance with the wife of the victim and co-accused Md. Shehjad, killed the victim and blood stains were found in the room of the petitioner. Moreover, the house owner and other witnesses have also saw the petitioner fleeing away from the place of occurrence and wife of the victim co-accused Kahkasha Parween has been granted by a Co-ordinate bench of this Court.

Learned A.P.P. submits that there are circumstantial evidence against the petitioner in the present case, however, there is no eye witness to the alleged occurrence.

Considering the fact that accusation is based on circumstantial evidence and during investigation also, no eye witness has been examined who saw the killing of



the brother of the informant, the investigation being concluded and the petitioner is not having any criminal antecedent, let the petitioner, above named, be released on bail, for the present, provisionally for a period of three months on furnishing one surety to the satisfaction of learned Sub-Divisional Judicial Magistrate, Patna City, Patna in connection with Khajekalan P.S. Case No. 493 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-Mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs. 10,000/-(ten thousands) with two sureties of the like amount each to



the satisfaction of Sub-Divisional Judicial Magistrate,
Patna City, Patna in connection with Khajekalan P.S.
Case No. 493 of 2019 including one surety given at the
time of provisional bail.

The learned Court below will be at liberty to
further extend the period of provisional bail if the Court
proceeding in physical mode will not resume in next
three months.

Accordingly, the present application stands
disposed of.

(Dinesh Kumar Singh, J)

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