

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18939 of 2020**

Arising Out of PS. Case No.-140 Year-2019 Thana- SHANKARPUR District- Madhepura

SANJEEV KUMAR Son of Sri Sundeshwari Yadav Resident of Village -
Shankarpur, Navtoliya, Ward No. 14, P.S.- Shankarpur, Distt - Madhepura.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 21636 of 2020

Arising Out of PS. Case No.-140 Year-2019 Thana- SHANKARPUR District- Madhepura

SANTOSH KUMAR Son of Yadunandan Yadav Resident of Village - Balwa,
P.S. and Distt.- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 18939 of 2020)

For the Petitioner/s : Mr.Amarnath Jha

For the Opposite Party/s : Mr.Prem Kumar Jha, APP

(In CRIMINAL MISCELLANEOUS No. 21636 of 2020)

For the Petitioner/s : Mr.Pranav Kumar

For the Opposite Party/s : Mr.Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 01-10-2020 Heard learned counsel for the petitioners in both the applications.

The petitioners in the present case are seeking regular bail in connection with Shankarpur P.S. Case No.140/2019 registered for the offences punishable under Sections 302, 201,34 and 120(B) of the Indian Penal Code.

Learned counsel for the petitioners have submitted that from the First Information Report it will appear that the allegations



against these two petitioners are that the deceased had gone with these petitioners to his Sasural where wife of the deceased was already there. They reached the Sasural of the deceased at 11.30 PM and thereafter the dead body of the deceased (son of the informant) was found by SDRF team near a canal drowning in the water. He had left his house on 22.08.2019 whereas his motorcycle was recovered lying abandoned on 23.08.2019 and dead body was found on 24.08.2019 at 1.00 pm. The deceased was working in the establishment of one co-accused Sant Kumar for last three years and it is alleged that these two petitioners along with said co-accused Sant Kumar had entered into a conspiracy and killed the son of the informant by drowning him in the canal.

Learned counsel submits that in course of investigation wife of the deceased has made statements that the deceased along with these two petitioners had reached her maike at about 12.00 in the night and after a brief stay for about 10 minutes as he started going with these petitioners the wife stopped the deceased, these two petitioners left but very soon the deceased got a call on his mobile and thereafter despite resistance by his wife the deceased left his sasural on his own motorcycle. Thereafter the wife kept on ringing him but without any response. Learned counsel then submits that from the statement of the wife who is the most significant witness in this case it is evident that the deceased had not left his sasural with these two petitioners though he had gone only after few minutes on



getting a mobile call. In course of investigation, however police has not found any call made on the mobile of the deceased from the mobile of these two petitioners.

Learned counsel has further pointed out that so far as co-accused Sant Kumar is concerned, his mobile calls have also been verified but no mobile calls have been found from the mobile of these two petitioners or from the mobile of said Sant Kumar on the mobile of these two petitioners. Otherwise no motive has been alleged to these petitioners as to why they would indulge in killing of the son of the informant. So far as the alleged occurrence is concerned, the same has allegedly taken place in mid time and there is no eye witness to the same.

Learned counsel submits that in course of investigation it has come that the deceased was having illicit relationship with the wife of co-accused Sant Kumar and his dead body was found in a canal only in Banian and this should be a relevant fact considering that the wife of the deceased had stated that he had left her maike after getting a phone call even though she had taken out the shirt of the deceased. It is then submitted that the confessional statement of the petitioners have been extracted in police custody which is not admissible. Otherwise petitioners have got no criminal antecedent.

Mr. Prem Kumar Jha, learned APP as well as Mr. Amitesh Kumar, learned APP have appeared on behalf of the State. It is their common contention that the case against the petitioners is based on



last seen, however, after reading of the statement of the wife of the deceased there is no ambiguity to this extent that the deceased had left his Sasural few minutes after these two petitioners had already left and then despite resistance by his wife and in fact his wife had taken out his shirt, the deceased left after getting a mobile call. It is not controverted that no call connection has been noticed in between the deceased and these two petitioners and again in between these two petitioners and the co-accused Sant Kumar. It is stated that there is no criminal antecedent of these petitioners.

Having regard to the facts and circumstances of the case, the materials noticed hereinabove suggesting at this stage that the name of the petitioners have transpired in connection with this case on some suspicion, however, in course of investigation the statement of the wife and other materials as noticed above are significant for purpose of bail, let the petitioners, who are in custody since 05.12.2019, be released on bail on furnishing of bail bond of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-I, Madhepura in connection with Shankarpur P.S. Case No.140/2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, oft he



commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

