

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 22574 of 2020

Arising Out of PS. Case No.-494 Year-2018 Thana- PATLIPUTRA District- Patna

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Raju Kumar, aged about 23 years, Male, Son of Sri Nagendra Sah, Resident of North Jai Prakash Nagar, Road No. -5, P.S.- Rajiv Nagar, District -Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Jee Verma, Advocate
For the State : Ms. Shaheen Begum, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-12-2020

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

2. Heard Mr. Binod Jee Verma, learned counsel for the petitioner and Ms. Shaheen Begum, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Patliputra PS Case No. 494 of 2018 dated 18.10.2018, instituted under Section 302 of the Indian Penal Code.

4. The allegation against the petitioner, though not named in the FIR, is of being party to the death of the brother of the informant.

5. Learned counsel for the petitioner submitted that he



has no connection with the occurrence. It was submitted that the FIR is based on the statement of the brother of the deceased. Learned counsel submitted that co-accused Sukesh Kumar who was arrested, in his confessional statement has stated that he was in the Apartment on the fateful night and the deceased and others were consuming liquor on the rooftop and he had gone to tell them not to do so but he was assaulted and also made to drink alcohol and went to sleep, and in the morning he saw that the body of the deceased was lying on the ground. It was submitted that the petitioner has not been named in the said statement. However, learned counsel submitted that co-accused Rakesh Kumar who was arrested, in his confessional statement has stated that the petitioner was also among many others, who had gathered on the rooftop of the Apartment and had consumed liquor, but beyond that no role has been assigned and most importantly, he has stated that he was in touch with co-accused Kunal Kumar after consuming liquor and as the deceased was creating ruckus, he had made him sleep there itself and had come home but later Kunal Kumar had rung up informing that he was again creating nuisance and in the morning he was informed that he had fallen from the rooftop and had died. Learned counsel submitted that nowhere the involvement of the



petitioner has been found and most importantly the CDR obtained by the police also discloses conversation, as per tower location, between co-accused Rakesh Kumar, Kunal Kumar and Sanjit Kumar and not the petitioner. Learned counsel submitted that neither the Inquest nor the Post Mortem reports disclose any other mark on the body of the deceased to indicate any scuffle or wrong doing and the only injury found was on the head and blood oozing from nostril and ear, which indicates that due to fall, such haemorrhage had took place leading to death. Learned counsel submitted that the petitioner has no criminal antecedent and has been made accused only on the vague statement of Rakesh Kumar that he was also present when everybody was having liquor on the fateful night.

6. Earlier, the Court had called for the copy of the case diary, Inquest and Post Mortem reports as also the CDR details.

7. Learned APP, with the assistance of the aforesaid, submitted that the petitioner has been named as one of the persons who was present on the rooftop from which the deceased had fallen and had consumed alcohol. However, she did not controvert the fact that the Inquest and Post Mortem reports do not indicate any injury on the body of the deceased and that the CDR does not disclose that the petitioner was in



touch with the other three co-accused who, as per their tower location, have been found to be near the vicinity of the place of occurrence.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, 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 Judge-cum-ACJM XII, Patna in Patliputra PS Case No. 494 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further (a) one of the bailors shall be a close relative of the petitioner and (b) the petitioner shall cooperate in the matter, both with the police/prosecution and the Court. Failure to cooperate shall lead to cancellation of his bail bonds.

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

(Ahsanuddin Amanullah, J)

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