

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23486 of 2020**

Arising Out of PS. Case No.-27 Year-2019 Thana- SONNAGAR RAIL P.S. District- Gaya

MANISH KUMAR, Son of Jitendra Chaudhary, Resident of Village-
Ankorha, P.S.- Khaira, District- Aurangabad (Bihar). Petitioner
Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.Md. Javed Jafar Khan, Advocate
For the Opposite Party/s : Mr. Narendra Kumar Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 24-11-2020 Learned counsel for the petitioner undertakes to remove all the defects pointed by the Stamp Reporter within three weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Narendra Kumar Singh, learned A.P.P. for the State.

Petitioner in the present case is seeking pre-arrest bail in connection with Sone Nagar Rail P.S. Case No. 27 of 2019 registered for the offences punishable under Sections 302, 120(B), 201, 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that from the First Information Report it would appear that the deceased Suryakant Kumar had been in touch with the girl whose name has been disclosed in the F.I.R. and he was talking to her on her mobile phone. He was informed by the said girl that on 18.05.2019 her cousin sister is going to be married and in that he can come. The deceased had reached the village of the girl on the said date.



He was present when the Barat reached at the door of the girl and he was in the Samiyana, at this stage Birendra Sao, Rabindra Sao, Shrawan Sao, all sons of late Jagdish Sao, Raushan Sao and Rohit Sao, both sons of Birendra Sao came there along with 4-5 unknown persons and tied the hand of the deceased Suryakant Kumar and started beating him. When some of the Barat persons tried to stop them, the said deceased was taken towards the western side of the village where temple is situated. This was seen by some of the Baraties but they were also threatened by the accused persons, later on the dead body of said Suryakant Kumar was found near the railway line.

Learned counsel submits that this petitioner is not named in the F.I.R. Few days after the alleged occurrence when the girl was examined under Section 164 Cr.P.C. she has also stated that she was confined in her room by the accused persons named in the F.I.R. and thereafter she is not aware as to what happened. She has not named this petitioner.

Learned counsel submits that in course of investigation none of the Barat people who were there have named this petitioner but on the statement of one Pinki Devi, this petitioner who is a co-villager has been implicated in this case as one of the persons present in the alleged occurrence. Learned counsel submits there is no eye witness to the alleged occurrence and being



a co-villager he has been falsely implicated by making a general and omnibus kind of allegation that he was also present.

Mr. Narendra Kumar Singh, learned A.P.P. for the State has submitted that the only witness who has taken name of this petitioner is Pinki Devi and in the diary which was earlier received by Mr. Akhileshwar Dayal, learned A.P.P. Incharge who is also present with the diary, no other witness has taken name of this petitioner. Pinki Devi was examined five days after the F.I.R.

Having regard to the facts and circumstances of the case, wherein this Court has noticed that there is no eye witness as regards the assault which had allegedly taken place after taking away of the victim boy towards the temple in the western side of the village and that the petitioner is not named in the F.I.R., he is also not related to the girl and her family though he is a villager, there is no witness from the Barat identifying the petitioner to be present at the time of alleged occurrence and the petitioner having no criminal antecedent, in the kind of materials noticed by this Court, the Court is inclined to grant him benefit of anticipatory bail, let the petitioner above named in the event of his arrest or surrender within a period of four weeks from today be enlarged on bail on furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Railway Magistrate, Gaya in



connection with Sone Nagar Rail P.S. Case No. 27 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the 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;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

This application is allowed.

(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'.

