

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61932 of 2019

Arising Out of PS. Case No.-214 Year-2017 Thana- BHAGWANPUR District- Begusarai

GUDDU PASWAN Son of Late Maheshwar Paswan Resident of Village -
Bagras, P.S.- Bhagwanpur, Distt.- Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sandip Kumar Gautam
For the Opposite Party/s	:	Mr.Shyameshwar Dayal
For the Informant	:	Mr. Bipin Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

9 15-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the informant.

The petitioner is languishing in jail since 11.7.2019 in a case registered for the offences punishable under Sections 302/34 of the IPC.

The prosecution case, as per the written report of Phuleshwar Sahni submitted to the SHO, Bhagwanpur Police Station, is to the effect that on 22.11.2017 at 7.00 A.M., the informant received information that his cousin sister is dead. Consequently, the informant along with his aunt reached at his sister's place of residence and found her dead body lying



on a cot, leading to registration of FIR against unknown. During the course of investigation, name of the petitioner sprang up when the mother-in-law of the victim namely, Sirjaniya Devi deposed that her daughter-in-law (victim) went in the company of the petitioner Guddu Paswan and his brother-in-law Alok Paswan which was witnessed by herself. Thereafter the accused persons threatened her not to reveal the same to anybody and subsequently she came to know that her daughter-in-law (victim) is dead. It is further alleged that a seven-years-old daughter of the victim suggested that the petitioner and others took away the cash amount and throttled the victim. Rest of the witnesses are hear say witnesses.

It is submitted by learned counsel for the petitioner that the FIR was registered after more than 12 hours of the alleged occurrence, i.e., on 22.11.2017 at 1.35 P.M., but none of the family members came forward to either lodge the FIR, particularly, the mother-in-law of the victim who claims to have seen the victim going in the company of the accused persons or the statement of the victim's minor daughter was disclosed before the police, as a result, FIR was registered against unknown. The occurrence took place on 21.11.2017 whereas the statements of the mother-in-law and minor daughter of the



victim have been recorded on 5.12.2017, which create doubt with regard to the bonafide of the statement of eye witnesses. Investigation has already been concluded. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP and the learned counsel for the informant submit that the daughter of the victim is the eye witness to the occurrence but they fail to explain as under what circumstances the mother-in-law of the victim did not disclose these facts before the police when the FIR was being lodged or also as to why the FIR was not being lodged by her.

Considering the fact that involvement of the petitioner surfaced after 14 days of the registration of the FIR, the FIR being lodged after 12 hours of the alleged occurrence, the fact that investigation has already been concluded and statement made in paragraph 3 of the petition that 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 the learned CJM, Begusarai in connection with Bhagwanpur P.S. Case No. 214 of 2017.

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.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Begusarai 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 the physical mode will not resume in three months.

(Dinesh Kumar Singh, J)

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