

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69353 of 2019

Arising Out of PS. Case No.-991 Year-2018 Thana- MOTIPUR District- Muzaffarpur

BALENDRA SAH Son of Late Chulhai Sah Resident of Village - Purani
Bazar, P.S.- Motipur, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Adv.

For the Opposite Party/s : Mr. Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 17-06-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The matter has been taken up through virtual Court
proceeding.

The petitioner has preferred the present application for
grant of bail in a case registered for the offences punishable
under Section 363, 364/34 and 302/120B of the I.P.C.

The prosecution case as per the written report of Chanda
Devi submitted before the Motipur Police Station is to the effect
that on 09.11.2018, the son of the informant Ranjan Sah went to
her in-law's house, but he did not return. It is alleged that on
08.11.2018, he was being threatened by the petitioner Balendra
Sah. Subsequently, the informant came to know that her son
conveyed one Krishna Sah that he is going to his in-laws house.



Hence, it is alleged that the petitioner Balendra Sah along with co-accused, Rinku Devi, Sushila Devi, parents of co-accused, Sushila Devi and other accused persons have killed the son of the informant. During investigation, the petitioner confessed that he assaulted the victim to death and on his confession, the dead body of the victim was recovered.

It is submitted by learned counsel for the petitioner that the victim left the house on 9.11.2018 whereas the written report was submitted on 12.11.2018. The dead body of the victim was recovered on 15.11.2018 and on the same day, the petitioner's confession was recorded which clouds the whole prosecution case. There is no motive for the petitioner killing the victim. The petitioner is languishing in custody since 17.11.2018 and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. It is further submitted that since the court proceeding is not functional in physical mode due to present pandemic, Covid-19, hence there is no likelihood of trial being concluded in near future.

Learned APP for the State submits that on the basis of confession of the petitioner, the dead body of the victim was recovered. Hence, there is strong circumstantial evidence with



regard to complicity of the petitioner in commission of the said crime.

Considering the fact that the investigation has already been concluded, the accusation is based on circumstantial evidence, the trial is not likely to be concluded in near future in the background of the fact that the court proceeding is not conducted in physical mode due to the present pandemic, Covid-19 coupled with statement made in paragraph no.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 SDJM (West), Muzaffarpur, in connection with Motipur P.S. Case No. 991 of 2018.

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, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned SDJM (West), Muzaffarpur, in connection with Motipur P.S. Case No. 991 of 2018

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

(Dinesh Kumar Singh, J)

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