

CRIMINAL MISCELLANEOUS No.72693 of 2019

Arising Out of PS. Case No.-296 Year-2019 Thana- MOTIHARI MUFASIL District- East Champaran

Subhash Prasad @ Subash Prasad, aged about 40 years (M), S/o Chetan Prasad R/o village- Dhekha Fakira Tola, P.S.- Muffasil, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Adv.

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 05-03-2020

Heard Mr. Umesh Chandra Verma for the petitioner, Mr. Patanjali Rishi for the informant and Mr. Md. Aslam Ansari for the State.

The petitioner, who is in custody since 09.07.2019, seeks bail in connection with Muffasil P.S. Case No. 296 of 2019, dated 03.07.2019, instituted for the offence under Sections 302, 201, 120B, 379/34 of the Indian Penal Code, 1860.

The deceased is the husband of the informant who has alleged that the deceased was taken



out of the house by four persons including the petitioner and later the dead body of her husband was found with his throat slit open. The motive alleged in the F.I.R. is that earlier to this occurrence, a case was lodged in which one Sukhdeo Prasad and Kanhaiya Prasad had gone to jail and in that case, the father-in-law and brother-in-law of the informant were witnesses. Aforesaid Sukhdeo Prasad and Kanhaiya Prasad were smarting under the aforesaid annoyance and therefore they have got the deceased killed.

Learned counsel for the petitioner submits that a very far fetched motive has been attributed to the petitioner and other accused persons. So far as the petitioner is concerned, except for his accompanying three other persons and the deceased outside the house for some work, nothing else has been alleged against him.

It has therefore been argued that at best it would be a case of last seen but that would not be an un-impeachable piece of evidence in the wake of the specific averment in the F.I.R. that Sukhdeo Prasad and Kanhaiya Prasad were having enmity with the family of the deceased.

As the relationship of the deceased with the



petitioner or of the petitioner with aforesaid Sukhdeo Prasad and Kanhaiya Prasad is not known nor has it been argued the petitioner, does not appear to have any reason to kill the deceased . Even if it is accepted to be true that the petitioner was last seen along with the deceased by the informant, that would not warrant any further incarceration of the petitioner.

As opposed to the aforesaid contentions, Mr. Patanjali Rishi has submitted that the investigating agency has all along been trying to fudge the issue and help the accused persons.

In support of aforesaid contention, Mr. Rishi has taken this Court to the various paragraphs of the case diary which indicate that all attempts have been made to divert the attention of the investigating agency from the real culprits. He further submits that if the petitioner and three others had taken away the deceased from his house, then they are required to explain as to how the deceased died.

However, considering the nature of accusation against the petitioner and his period of custody, he is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to



the satisfaction of the learned Chief Judicial Magistrate,
East Champaran, Motihari in connection with Muffasil
P.S. Case No. 296 of 2019.

The application stands allowed.

(Ashutosh Kumar, J)

GAURAV S./-
skm/-

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