

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77123 of 2019

Arising Out of PS. Case No.-34 Year-2011 Thana- RAGHOPUR District- Vaishali

MANIK CHAND RAI @ MANIKCHAND RAY Son of Late Munshi Rai
Resident of Village-Bahirampur Rustampur, P.S-Raghopur (Rustampur OP),
District-Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Advocate Mr. Mukesh Kumar, Adv. Mr. Shivjee Singh, Adv.
For the Opposite Party/s	:	Mr. Zainul Abedin, A.P.P.
For the Informant	:	Mr. Arun Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 16-03-2020 Heard both sides.

The petitioner seeks bail in Raghopur(Rustampur O.P.) P.S. Case No.34 of 2011 registered under Sections 147, 148, 149, 323, 379, 364, 120B of the Indian Penal Code and Section 27 of the Arms Act. Later on, Section 302 of the I.P.C. was added.

The informant, Randhir Kumar @ Vinod Rai made his statement on 25.04.2011 alleging therein that on 22.04.2011 while his brother and other were going to their house, the petitioner and 29 others named therein surrounded the brother of the informant. The accused persons having armed with firearm and many other lethal weapons assaulted the brother of the



informant and kidnapped him with an object to kill him.

The learned counsel for the petitioner submits that on the basis of the fardbeyan of Chandeshwar Rai, Raghapur(Rustampur) P.S. Case No.33 of 2011 was registered under Sections 307, 302 and other Sections of the Indian Penal Code and Section 27 of the Arms Act in which three persons namely, Yogendra Rai, Dilip Rai and Nagina Ravidas were gunned down and the informant and others were received firearm injuries. It is submitted that there was a political rivalry on account of panchayat election in which three persons from the side of the petitioner were killed. The informant later on hatched up a conspiracy and lodged the false case for kidnapping of his brother for which the informant made statement before the police on 25.04.2011 i.e. after three days of the occurrence. During the course of investigation, one mutilated body of unknown person was found. D.N.A. was held but D.N.A. of the deceased was not matched and, therefore, there is no material to show that the brother of the informant was kidnapped and killed. The wife of the victim made statement under Section 164 Cr.P.C. after four months of the occurrence in which she claimed to be an eye witness of the occurrence. It is submitted that had she been the eye witness of



the occurrence, she would have forthwith come forward to institute the case. It is further submitted that similarly situated eight accused persons have already been granted bail by order dated 04.04.2017 passed in Cr. Misc. No.1406 of 2017. One of the co-accused namely, Chanarik Rai has also been granted regular bail by a co-ordinate Bench of this Court by order passed in Cr. Misc. No.8979 of 2013. The case of the petitioner stands on the same footing. It is further submitted that petitioner had earlier moved before this Court for grant of anticipatory bail in Cr. Misc. No.23798 of 2012 along with Cr. Misc. No.25270 of 2012 and the anticipatory bail of the petitioner was rejected with a direction to the petitioner to surrender and seek regular bail but the petitioner on account of illness could not surrender in Court. Petitioner has got criminal antecedent but so far as allegation in the present case is concerned, there is omnibus and general allegation against the petitioner and other accused persons. Petitioner is in custody since 16.09.2019. Petitioner has already remained in jail for six months although there is no specific allegation against the petitioner and other accused persons have already been granted bail.

On the other hand, learned counsel for the informant and the learned A.P.P. opposed the prayer for bail and submit



that from perusal of para 3 of bail petition, it would appear that petitioner has got criminal antecedent and he is a notorious criminal of the locality. He is accused in many other cases of serious nature such as Section 302 and other such offences but at the same time, on query, learned counsel for the informant fairly submits that save and except the criminal antecedent of the petitioner, the case of the petitioner cannot be distinguished with the case of other accused persons who had already been granted bail.

From perusal of the record, it appears that for the occurrence dated 22.04.2011, Raghapur(Rustampur O.P.) P.S. Case No.33 of 2011 was registered against the informant of the present case and others for killing of three persons on the spot and injuring many others. The informant of course claimed that the occurrence of assault and kidnapping of his brother took place on 22.04.2011 but the present case was registered only on 25.04.2011 i.e. after three days of the occurrence. The informant alleged that his brother was kidnapped by the petitioner and others with an object to kill him but there appears no tangible evidence that dead body of the deceased was found. Of course the brother of the informant is still traceless but petitioner has remained in jail for six months and similarly situated other



accused persons have been granted bail.

Considering the facts aforesaid, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge Xth, Vaishali at Hajipur in connection with Raghapur(Rustampur O.P.) P.S. Case No.34 of 2011, subject to the condition that one of the bailors shall be close relative of the petitioner and petitioner shall appear on each and every date in the trial court during the course of trial.

If the petitioner fails to appear on two consecutive dates without any reasonable ground, the trial court may cancel the bail bond of the petitioner.

(Prabhat Kumar Jha, J)

Saurabh/-

U		T	
---	--	---	--

