

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79237 of 2019

Arising Out of PS. Case No.-231 Year-2019 Thana- KUSHESHWARASTHAN District-
Darbhanga

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MD. SIKANDAR @ MD. SIKINDAR Son of Md. Islam Resident of Village -
Nimi, P.S.- Singhiya, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Jha, Advocate
For the Informant	:	Mr. Ajay Kumar, Advocate
For the State	:	Mr. Aslam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 19-03-2020 Heard Mr. Pankaj Kumar Jha for the petitioner,

Mr. Ajay Kumar for the informant and Mr. Aslam Ansari

for the State.

The petitioner who is in custody since
27.09.2019 seeks bail in connection with K. Asthan P.S.
Case No. 231 of 2019 instituted for the offences under
Sections 302, 120(B), 34 of the Indian Penal Code.

The informant of this case is the brother of the
deceased who has alleged that the deceased had lent
rupees fifty thousands to the petitioner for solemnizing
the marriage of his daughter. When the money was



demanded by the deceased, the petitioner got irked and thought of teaching a lesson to the deceased. In order to create a situation whereby the deceased could be killed, the petitioner is alleged to have developed some intimacy with the deceased. Later, it has been alleged that the deceased was accompanied by the petitioner and another and thereafter the whereabouts of the deceased could not be known. The petitioner and his associates were also found to be absconding, raising suspicion against him. The allegation therefore has been laid in the F.I.R that the petitioner along with his associates have killed the deceased.

The learned counsel for the petitioner has submitted that assuming but not admitting the fact that the deceased had lent rupees fifty thousands to the petitioner, which the petitioner had not returned and that the petitioner was last seen going with the deceased to some destination, it cannot be said that the deceased was killed by the petitioner. At best, it has been urged, it



would be a case of suspicion and last seen with the deceased.

The further argument on behalf of the petitioner is that the postmortem report does not reveal that there was any external injury on the person of the deceased. What could be the reason for his death remains unknown.

As opposed to the aforesaid contentions, Mr. Ajay Kumar, learned advocate for the informant has submitted that in the event of there being definite motive of the petitioner for having killed the deceased, there is no reason why the petitioner being last seen with the deceased be not taken as a serious piece of evidence for rejecting his prayer for bail.

In support of the aforesaid contention, Mr. Kumar, learned advocate has further drawn the attention of this Court to the statement of one of the witnesses, a co-villager, who has stated that he had spotted the petitioner coming naked from the side of the village



where the dead body of the deceased was found. A towel was offered to the petitioner to cover his body.

On the basis of the aforesaid evidence collected during the course of investigation, learned advocate for the informant has submitted that the petitioner must have grappled with the deceased. Thus, there is a positive suspicion against the petitioner and therefore he ought not to be released on bail.

Similar opposition has been made by the learned A.P.P.

On perusal of the records of this case, it appears that there is no eye witness to the occurrence. The petitioner is the cousin brother-in-law of the deceased. Notwithstanding the fact that there is some dispute but whether it could have been the impelling motive for killing the deceased is not known.

In the absence of any cogent evidence and the only material been collected against the petitioner being of the deceased having accompanied the petitioner on



some day prior to the occurrence, the prosecution of the petitioner in this case can only be said to be on the basis of suspicion. Suspicion is a sea without a shore and any voyage in that sea would render such person without a radar and compass.

Considering all these facts and taking into account the period of custody of the petitioner, he is directed to be released on bail on furnishing bail bonds of Rs. 10,000/-(ten thousands) with sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Biroul, Darbhanga in connection with K. Asthan P.S. Case No. 231 of 2019.

(Ashutosh Kumar, J)

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