

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 79191 of 2019

Arising Out of PS. Case No.-52 Year-2019 Thana- NAUTAN District- Siwan

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Chandan Kumar Pandey, aged about 25 years, Gender-Male, son of Vashishth Pandey, resident of Village-Bishambharpur, P.S.-Nautan, District-Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Dubey, Advocate

For the Opposite Party/s : Mr. Zainul Abedin, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 23-11-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Pankaj Kumar Dubey, learned counsel for the petitioner and Mr. Zainul Abedin, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Nautan PS Case No. 52 of 2019 dated 01.04.2019, instituted under Sections 302/201/34 of the Indian Penal Code.

4. The allegation against the petitioner and others is that they had murdered the daughter of the informant after



cutting her neck.

5. Learned counsel for the petitioner submitted that the narration in the FIR itself will show that the petitioner has been falsely implicated. It was submitted that though there is allegation that the petitioner used to bother and harass the deceased whenever she went out of the village but no report anywhere was ever lodged with any authority. It was further submitted that even as per the allegation, the informant had gone to the house of the father of the petitioner to lodge complaint that the petitioner had taken the mobile of the deceased but when she was rebuked, she had returned to her home. Learned counsel submitted that the petitioner lives in a different village and there was love affair between the parties and he wanted to marry her but the parents of the deceased were against it and in fact it is a case of honour killing. Learned counsel submitted that as per the FIR itself the deceased was sleeping in the night of 31.03.2019 with her sister on the roof but the next morning she was missing and when the family searched for her they were informed that there was a body of a girl in the field of co-villager Prabhunath Pathak, and it turned out to be that of the daughter of the informant. It was submitted that though the allegation is that the petitioner had killed her but



it is not believable that the petitioner and other persons would come to another village and would go the room of the informant's house and forcibly abduct the girl and kill her without there being any resistance by her. It was further submitted that even the Inquest report and Post Mortem report disclose that there were bruises over the legs, chest and arms of the deceased which indicates that there was scuffle and in that background it cannot be believed that after all such scuffle still the sister of the deceased, who was sleeping with her, and other family members would remain sleeping. Learned counsel submitted that abduction of an 18 years old girl from the roof top of the house after such scuffle and struggle could not have been made by one person and then it is not disclosed that how they reached the roof of the house without there being allegation that the door of the house was left open or found open and anybody had seen either the petitioner or any of his family members coming to the house of the informant. Learned counsel submitted that even if the allegation of the petitioner having taken the mobile phone number of the deceased and harassing her is accepted, it was not sufficient for him to kill the girl as it was not her who was either bothering or blackmailing them. Learned counsel submitted that such extreme step in the house



of the informant in another village by the petitioner is not believable in the facts and circumstances of the case. Learned counsel submitted that there are no eye witnesses and it is only the sister and sister-in-law (*bhabhi*) of the deceased who have alleged that the petitioner used to bother and harass the deceased when she went out of the village and further that there are no other witnesses to either support the said allegation, much less of the incident. Learned counsel submitted that the petitioner has no other criminal antecedent.

6. Learned APP, from the case diary as also the Inquest report and Post Mortem report, submitted that bruises have been found on the chest, arms and legs of the deceased and there was sharp cut on her neck. However, he did not controvert that there is no criminal antecedent as also the fact that except for the two close family members of the deceased there is no other witness to support even the allegation of harassment by the petitioner of the victim, much less of the murder.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand)



with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Siwan in Nautan PS Case No. 52 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further (a) one of the bailors shall be a close relative of the petitioner and (b) the petitioner shall cooperate in the matter, both with the police/prosecution and the Court. Failure to cooperate shall lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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