

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9674 of 2020

Arising Out of PS. Case No.-767 Year-2018 Thana- NATHNAGAR District- Bhagalpur

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Kapil Yadav @ Kapil Yadav @ Kapil Kumar, male, aged about 45 years, Son of Late Kuseshwar Yadav, Resident of Village - Bathoria, P.S. - Nathnagar (Madhusudanpur), District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Adv.

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 17-03-2021 Heard Mr. Praveen Kumar, learned Advocate for the petitioner and Mr. Anil Kumar Singh No. 1, learned APP for the State.

The petitioner seeks bail in connection with Sessions Trial No. 448 of 2019 arising out of Nathnagar (Madhusudanpur) P.S. Case No. 767 of 2018, dated 22.12.2018, instituted for the offences under Sections 147, 148, 149 and 302 of the Indian Penal Code and Section 27 of the Arms Act.

The prayer for bail of the petitioner was earlier rejected by this Court *vide* order dated 17.08.2019 passed



in Cr. Misc. No. 27059 of 2019.

The petitioner is said to have participated in the killing of the deceased, who is the brother of the informant.

The learned counsel for the petitioner has submitted that this Court while rejecting the prayer for bail of the petitioner on an earlier occasion had taken note of the fact that he had not been named in the F.I.R. and that his name has transpired only during the course of investigation.

The petitioner was found to be riding a motorcycle and the deceased had been waiting for him at some place for sometime. Later, the petitioner was found speeding away on his motorcycle. This was the circumstance which was pointed out during the course of investigation to suspect the participation of the petitioner in the killing of the deceased.

While rejecting the prayer for bail of the petitioner, this Court had taken note of the fact that he had earlier been made accused in about twenty one cases. On consideration of all the facts, this Court had rejected his bail application.

On 26.02.2020, this Court had called for a report



about the stage of the case from the Court below.

The report dated 29.02.2020 indicates that out of seven charge-sheet witnesses, only one witness, viz., the Doctor, who had conducted the *postmortem* examination, has been examined and that processes have been issued for compelling the attendance of the other prosecution witnesses.

The petitioner is said to be in custody since 19.01.2019 and in all the cases in which he was earlier made accused and about which reference has been made in paragraph 3 of the bail application, he is on bail.

Considering the aforesaid tardy progress of the trial in this case, which is not attributable to the petitioner, I am inclined to grant bail to him during the continuance of the trial on certain conditions.

The petitioner, above-named, is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 4th Addl. Sessions Judge, Bhagalpur in connection with Sessions Trial



No. 448 of 2019 arising out of Nathnagar (Madhusudanpur)

P.S. Case No. 767 of 2018, subject to following conditions:

(i) That the petitioner shall participate in the trial;

(ii) That the absence of the petitioner from the trial proceedings on two consecutive occasions, without prior consent of the Trial Court, would render his bail liable to be cancelled;

(iii) That the petitioner, without seeking permission from the Trial Judge, shall not leave the territorial confines of the Trial Court; and

(iv) That the petitioner shall also get his presence marked before the Officer-in-Charge of the concerned police station on the first Monday of each month. The Officer-in-Charge of the concerned police station is directed not to detain the petitioner in the police station unnecessarily.

The application stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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