

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24160 of 2021

Arising Out of PS. Case No.-699 Year-2020 Thana- KHAGARIA District- Khagaria

Awadhesh Mahto @ Avdhesh Kumar @ Awadhesh Kumar Son Of
Ramswarup Singh @ Ramsharan Mahto R/O Village- Haripur, P.S.- Alauli,
Dist.- Khagaria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate
For the Informant : Mr. Mrityunjay Kumar, Advocate
For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 23-12-2021 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner seeks regular bail in connection with
Khagaria (Gangaur) P.S. Case No. 699 of 2020 instituted for the
offences under Sections 302, 201, 120B and 34 of the Indian
Penal Code.

Learned counsel for the petitioner submits that the
petitioner is in custody since 03.12.2020, is a person with clean
antecedent and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that from
perusal of the F.I.R. it would manifest that the informant alleges
that his son (deceased) worked for four years in the shop of
Awadhesh Mahto (petitioner) and thereafter opened his own



mobile shop which was objected by the petitioner and the son was also threatened that consequences would be bad if he does not close his shop. It is further alleged that two unknown accused came to the shop of the deceased on 16.09.2020 for booking videography camera and took the son of the informant for clicking pictures and it is alleged that thereafter informant came to know that his son was killed, thus the present F.I.R. was instituted alleging that petitioner under conspiracy got his son killed.

Learned counsel for the petitioner submits that admittedly the informant is not an eye-witness to the occurrence and the allegation in the F.I.R. is based on suspicion. Learned counsel further submits that it does not stand to reason that a businessman would get his competitor killed and that too when the petitioner was well known to the family of the deceased. It is further submitted that during the course of investigation it has come that the police spy disclosed that it was one Valmiki Yadav who committed the occurrence in conspiracy with this petitioner and Kundan Kumar, further it has also come that Kundan Kumar was arrested and his confessional statement was recorded on 18.10.2020 wherein he accepted the guilt and also stated that he is brother-in-law of the petitioner and in



conspiracy, they committed the occurrence with the aid of Valmiki Yadav and also that the mobile of the deceased was in the house of Valmiki Yadav in pursuance whereof the same was recovered from the house of Valmiki Yadav though he was not arrested at that point of time.

Learned counsel for the petitioner submits that the police spy had already disclosed on 19.09.2020 based on which the petitioner and Kundan Kumar came to be implicated and the alleged recovery of two mobiles from the house of Valmiki Yadav has been shown in order to implicate the petitioner and Kundan Kumar falsely in the present case for the reason that if the mobile really belong to the deceased then the police definitely would have come to the conclusion that the mobile belong to the deceased based on the IMEI Number but the IMEI Number of the mobile which was recovered from the house of Valmiki Yadav did not tally with the IMEI Number of the mobile of the deceased and thus the mother of the deceased was called to identify the same and she identified. Learned counsel submits that mobile may be of different companies but they look similar and as such identification of the mobile by the mother of the petitioner in absence of IMEI Number tally does create suspicion.



Learned counsel for the informant and learned A.P.P. for the State vehemently oppose the prayer for regular bail of the petitioner and submits that based on the confession of Kundan Kumar, the mobile was recovered from the house of Valmiki Yadav which connects the petitioner and Kundan Kumar with the offence but are not able to meet the submission of learned counsel for the petitioner that the IMEI Number of the mobile recovered does not tally with the IMEI Number of the mobile of the deceased.

Considering the fact that the petitioner is in custody since 03.12.2020, charge-sheet has been submitted in the case, the petitioner is a person with clean antecedent and his name has come based on suspicion, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Khagaria in connection with Khagaria (Gangaur) P.S. Case No. 699 of 2020.

(Satyavrat Verma, J)

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