

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23829 of 2021**

Arising Out of PS. Case No.-291 Year-2020 Thana- WARISNAGAR District- Samastipur

Vipin Kumar Thakur @ Vipin Thakur, aged about 60 years (Male), Son of Late Dhirendra Prasad Thakur @ Dhirendra Thakur, resident of village - Gohi, P.S. Warisnagar, District - Samastipur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P K Shahi, Senior Advocate with Mr. Mukesh Kumar, Advocate
For the State	:	Mr. Anil Kumar Singh No. 1, APP
For the Informant	:	Mr. Shivpujan Sahay, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 07-06-2021

The matter has been heard *via* video conferencing.

2. On 03.06.2021, on the plea of learned senior counsel for the petitioner, the matter was adjourned for today.

3. Heard Mr. P K Shahi, learned senior counsel along with Mr. Mukesh Kumar, learned counsel for the petitioner; Mr. Anil Kumar Singh No. 1, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Shivpujan Sahay, learned counsel for the informant.

4. The petitioner apprehends arrest in connection with Warisnagar PS Case No. 291 of 2020 dated 30.12.2020, instituted under Sections 307, 120-B/34 and 302 of the Indian Penal Code and 27 of the Arms Act, 1959.



5. The allegation against the petitioner and others is that they were party to the murderous attack on the husband of the informant, who was a sitting *Mukhiya*. Later on, the victim died leading to addition of Section 302 of the Indian Penal Code.

6. Learned counsel for the petitioner submitted that he has been made victim only because he is a public-spirited person and has tried to seek justice for all the wrong acts of persons in authority and further, that in the present case, he had filed various petitions before the authorities with regard to the illegalities committed by the deceased, including filing of a Public Interest Litigation in the High Court. It was submitted that his effort led to an investigation by the District Magistrate, Samastipur and the finding was against the deceased due to which, the District Magistrate, Samastipur, had ordered to the Block Development Officer, Warisnagar to lodge an FIR, which has resulted in institution of Warisnagar PS Case No. 130 of 2020. Learned counsel submitted that the District Magistrate had also written to the Panchayat Raj Department, Bihar, for removal of the deceased from the post of *Mukhiya* under Section 18(5) of the Bihar Panchayati Raj Act, 2006, finding enough evidence of wrong doing on the part of the deceased after



getting a full-fledged enquiry conducted in the matter. Learned counsel submitted that the petitioner is 70% handicapped from below waist which would be clear from the Disability Certificate issued by the Civil Surgeon-cum-Chief Medical Officer, Samastipur, dated 18.02.2008. It was further submitted that the deceased had filed Complaint Case No. 745 of 2020 on 13.07.2020 which resulted in institution of Warisnagar PS Case No. 211 of 2020 alleging that a murderous attack was made on him where date of incident is mentioned as 23.05.2020. It was submitted that the deceased was the sitting *Mukhiya* and it is absolutely unexplained as to why he waited for almost two months and lodged a complaint case when there was serious threat, as a murderous attack on his life had taken place and further, why he did not apply to the local administration for police protection. Further, it was submitted that even the present incident has occurred on 24.12.2020, but the FIR has been lodged on 30.12.2020. Learned counsel submitted that besides the said case filed by the deceased against the petitioner and others, there is no other case against him. It was submitted that it is absolutely unbelievable that a person, who is party to the murder, would go through the whole paraphernalia of moving the authorities for investigation and even approaching the



Hon'ble High Court for removing him when he could have gone ahead with getting the deceased killed. It was submitted that moving the authorities itself indicates that the petitioner is a law abiding citizen and wants to go through the procedure of law and in accordance with law and he would not create for himself a situation where if anything happened to the deceased, he would be the first target as he had been opposing him at various forums. Learned counsel submitted that, in fact, it was the deceased himself, who was accused in at least ten cases, details of which has been given at paragraph no. 12 of the petition, under serious sections of the Indian Penal Code and also under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and, thus, he had enough enemies, who had a bigger motive to commit such crime, whereas, the petitioner was fighting purely in accordance with law and in peaceful manner against the deceased and had no personal enmity or vendetta for being party to the murder.

7. Learned APP submitted that the petitioner is accused of being party to the murder as he had been opposing him in the past also.

8. Learned counsel for the informant submitted that the petitioner had political rivalry and was, thus, clearly



involved in the murder of the deceased. However, he could not controvert the disability of the petitioner and the petitioner having moved before various forums, including the High Court for action against the deceased and his wrong doing.

9. 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, Samastipur, in Warisnagar PS Case No. 291 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, and (ii) that the petitioner shall cooperate with the Court/police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.



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

(Ahsanuddin Amanullah, J)

J. Alam/-

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