

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25301 of 2021

Arising Out of PS. Case No.-79 Year-2020 Thana- KADIRGANJ District- Patna

Ramesh Kumar, S/O Ganesh Choudhary, R/O Village-Dhamauli, P.S-
Islampur, District-Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Yogesh Chandra Yadav, Sr. Advocate Mr. Anil Kumar Singh, Advocate.
For the Opposite Party/s :	Mr. Arvind Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

3 06-12-2021 As prayed for, learned Senior counsel appearing for the applicant is permitted to make necessary correction in the first paragraph and prayer portion of the bail application in course of the day.

The applicant/accused in Crime No. 79 of 2020 registered with Kadirganj Police Station for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code at the instance of first informant Md. Shoeb Akthar - P.S.O., by this application is seeking his release on bail during pendency of the trial.

Heard the learned Senior counsel appearing for the applicant/accused at sufficient length of time. By taking through the FIR as well as the report of the postmortem examination of the dead body, he argued that the circumstantial evidence collected by the prosecution in the instant case is laconic and contrary to the prosecution case.



The learned Additional Public Prosecutor opposed the application by contending that the applicant when was apprehended by the villagers was found to be drenched with water. His associates flee from the spot. The applicant has made confessional statement which has resulted in recovery of dead body of his own sister. This according to the learned Additional Public Prosecutor is sufficient to infer, complicity of the applicant in the crime in question.

I have considered the submissions so advanced and perused the materials placed before me.

Undisputedly the case is one of the circumstantial evidence. In such cases, inference of guilt can be established only when chain of circumstances is so complete that it should lead only to one hypothesis, i.e., guilt of the applicant/accused in the crime in question. Tested from this angle if we look at the prosecution case then it is clear that the applicant was apprehended at 11.05 P.M. of 09.09.2020. He made confession to police that he committed murder of his sister Anjali Kumari at 8.30 P.M. of 09.09.2020 with his associates namely brother-in-law Mukesh Choudhary and cousin Bikash Kumar by drowning her in the pool of water. On the basis of this confessional statement of the applicant, the dead body of Ajnali Kumari was recovered and it was dispatched to the postmortem examination at 5.10 P.M. of 10.09.2020, that is within twenty four hours of death of the victim as per the confessional



statement. However, during postmortem examination of the deceased, it is seen that the dead body was in total decomposed state emitting foul smelling. The Autopsy Surgeon is opined that time of death is at least 36 to 42 hour prior to conducting the postmortem examination.

In the light of this evidence of the prosecution, further pretrial detention of the applicant is not necessary. It is reported that co-accused Vikash Kumar, against whom similar allegations are there is already directed to be released on bail vide order dated 20.09.2021 passed in Criminal Misc. No. 25355 of 2021 and hence, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 79 of 2020 registered with Kadirganj Police Station for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code be released on bail on executing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.



(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue bail-writ as per this order only after removal of office objections by the appellant/accused.

Bhardwaj/-

(A. M. Badar, J)

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