

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25425 of 2021**

Arising Out of PS. Case No.-291 Year-2020 Thana- KHARHAGPUR District- Munger

Dharambir Kumar @ Karambir Bharti Son of Late Girdhari Singh Resident of
Village- Nazary, P.S.- Haweli Kharagpur, District- Munger.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Shivam
For the Opposite Party/s	:	Mr. Surendra Prasad Singh
For the informant	:	Mr. Kaushal Kumar Jha

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

4 15-12-2021 The applicant/accused in Crime No. 291 of 2020 registered with Haweli Kharagpur Police Station for the offences punishable under sections 302, 201, 120(B) read with 34 of the Indian Penal Code, by this application is seeking his release on bail after filing of the charge-sheet.

Heard the learned counsel for the applicant/accused. He submits that except the last seen theory, there is no other evidence to connect the applicant in this offence. It is further argued that the applicant is not having any criminal antecedent.

Learned prosecutor opposed the application by contending that the deceased was taken by the accused persons including the applicant for participation in some



celebration and during night hours, he was done to the death. Similar submission are advanced by the learned counsel for the first informant.

I have considered the submission so advance and also perused the entire case diary.

The case of the prosecution is based on circumstantial evidence. It is trite that in such cases, the prosecution is enjoin to establish all circumstances which should have cumulative effect of inferring the guilt and only the guilt of the accused in the subject crime.

Gunja Devi-widow is the first informant in the instant case. Her husband Pintu Kumar died homicidal death and the dead body was recovered on 25.10.2020. The first informant Gunja Devi as well as her relatives is unanimous in stating that the applicant as well as other co-accused had been to the house of deceased, they gave some amount to the deceased and took the deceased with them for having a party. This happened at about 7.30 P.M. on 24.10.2020. Dead body of Pintu Kumar was found with fatal wounds at 6 A.M. at 25.10.2020.

During the course of investigation, the prosecution has collected call detail records of the deceased Pintu Kumar.



It is seen that he had talked with several persons during that night. I am unable to locate the statements of those persons with whom the deceased had talked during that night. Statement of Pawan Kumar reflects some illicit relations of the deceased Pintu Kumar with sister of his friend. Except the last seen theory, there is no other circumstance reflected from the papers of investigation to infer complicity of the applicant in the subject crime. There is no recovery or discovery at the instance of the applicant. The applicant is not having any criminal antecedent. In this view of the matter, further pre-trial detention of the applicant is not warrant and therefore, the order.

The application is allowed.

The applicant/accused in Crime No. 291 of 2020 registered with Haweli Kharagpur Police Station is directed to be released on bail on executing P.R. Bond of Rs. 10,000/- (Ten Thousand) on furnishing sureties 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 not repeat the trial in expeditious disposal of the trial against him.

(III) 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 applicant/accused.

(A. M. Badar, J)

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