

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28558 of 2020

Arising Out of PS. Case No.-736 Year-2019 Thana- HAJIPUR SADAR District- Vaishali

Jitendra Sah, S/o Jageshwar Sah, Resident of Village – Gouspur Izra, P.S. -
Sadar Hajipur, District - Vaishali

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Singh, Advocate
For the State	:	Mr. Akhileshwar Dayal, A.P.P.
For the Informant	:	Mr. Vinod Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 25-01-2021 Heard learned counsel for the petitioner, learned counsel for the informant and Mr. Akhileshwar Dayal, A.P.P. for the State.

The petitioner, in the present case, is seeking pre-arrest bail in connection with Hajipur Sadar P.S. Case No. 736 of 2019 registered for the offences under Sections 302/120(B)/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that earlier this Court while calling for the case diary had been pleased to take note of the allegations and the submissions in brief in its order dated 04.12.2020.

In today's hearing learned counsel for the petitioner submits that in course of investigation, the informant has neither



provided her mobile number and the mobile number of her deceased daughter from which she had allegedly made call to the informant and had disclosed her apprehension that she will be murdered.

It is further submitted that in the F.I.R. the informant says that she came to Hajipur on 08.11.2019 and when she reached at Ramashish Chowk her nephew Rahul Kumar told her that her daughter has been murdered and the dead body is lying in the hospital at Hajipur but in course of investigation said Rahul Kumar has not come forward to make such statement before the I.O.

Learned counsel submits that it is a case of false implication of the petitioner just to extract money.

Learned counsel for the informant has opposed this application as according to him there is a land dispute between the petitioner's side and the informant's side and only because the petitioner's side wants to grab the land, they have indulged in killing of the daughter of the informant.

Mr. Akhileshwar Dayal, learned A.P.P. for the State has gone through the case diary.

This Court is reproducing the order dated 04.12.2020 :-

“Learned counsel for the petitioner



undertakes to remove all the defects pointed by the Stamp Reporter within three weeks after start of normal functioning of the Court.

Call for a legible carbon/photostat copy of the case diary with complete post-mortem report of the deceased in connection with Sadar Hajipur P.S. Case No. 736 of 2019 from the court of learned Chief Judicial Magistrate, Vaishali at Hajipur.

List this case on receipt of the same or on 18th January, 2021 whichever is earlier.

Learned counsel for the petitioner submits that from the F.I.R. it would appear that on 08.11.2019 the informant gave her fardbeyan before Police in which she has stated that on 06.11.2019 her daughter had given a telephone call to her in which she has disclosed that altogether 11 named accused persons are planning to kill her and that they would throw her in Ganges so that nobody can come to know about it. The informant claims that she told her daughter to remain in her house but her daughter asked her also to come whereupon no telephonic talk took place between 6th and 7th November, 2019 and the mobile phone of her daughter was coming switched off. On 07.11.2019 she left for Hajipur by train and reached there where her nephew told her that her daughter has been murdered.

Learned counsel submits that there is no eye witness to the alleged occurrence and it is highly unbelievable that neither the daughter of



the informant gave any call to the police with regard to the alleged threat nor the nephew of the informant lodged any case before police with regard to the alleged murder. It is submitted that it is a case of false implication without there being any material.

Till next hearing of the matter, no coercive action shall be taken against the petitioner in the aforesaid case provided the petitioner appears before the Investigating Officer within two weeks from today and submits himself to interrogation as and when required by the Investigating Officer. Petitioner would file an affidavit showing compliance of this part of the order before the next date of hearing of this case.”

Having regard to the facts and circumstances of the case wherein this Court has been informed that in course of investigation, the informant has not produced the mobile number and there is no material showing that the deceased had given a telephonic call to her mother on 06.11.2019, in the case diary no eye witness account has been brought in course of investigation and as such there is no eye witness to the alleged occurrence, the nephew of the informant who had allegedly told the informant that her daughter has been murdered has also not come forward to support the allegations, there is no material in the case diary showing that by killing the daughter of the



informant the petitioner would have any gain, the postmortem report shows the death due to asphyxia and in the opinion of the doctor by suicidal hanging, in the nature of the materials placed before this Court, let the petitioner above-named, in the event of his arrest or surrender within a period of four weeks from today in connection with Sadar Hajipur P.S. Case No. 736 of 2019 shall be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify



the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

