

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28568 of 2020

Arising Out of PS. Case No.-599 Year-2018 Thana- RAMKRISHNANAGAR District- Patna

SHEO SHAMBHU PRASAD Son of Deep Narayan Prasad Resident of
Mohalla- Ramchandrapur Old, Eastern Side of Ajanta Cinema Hall, Police
Station- Laheri, District- Nalanda. Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Mouar,Advocate

For the Opposite Party/s : Mr.Raj Kishore Singh,APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 27-01-2021 Heard learned counsel for the petitioner and Mr. Raj
Kishore Singh, learned APP for the State.

The petitioner in the present case is seeking pre-arrest bail in connection with Ram Krishna Nagar P.S. Case No. 599 of 2018 registered for the offences punishable under Sections 302, 326, 120(B) and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per prosecution story on 29.12.2018 at about 10:00 P.M. near the dead body of the deceased (Nikhil Kumar) it was alleged that he was stabbed by someone in Khemnichak market, the informant when came to the place of occurrence on getting information that one youth has been stabbed, he saw that there was a crowd and the injured was lying their who was bleeding profusely, he was seriously injured in the left side of his waist. It is alleged that the injured was stabbed by knife and serious injury was caused on his body, somehow he was taken to Ford Hospital where he died in course of treatment. The informant claimed that the victim's friends namely (1) Prashant Kumar and (2) Kari used to come



to meet and were regularly taking him outside. On next day the informant in his further statement claimed that his nephew Nikhil Kumar gave him a telephone call and then the informant raised suspicion that named accused together with their other friends in conspiracy killed his nephew.

Learned counsel submits that in course of investigation, in further statement also the informant did not name this petitioner. Later on one Roshan Kumar who was allegedly there with the injured at the time of the alleged occurrence made a statement on 2nd January, 2019 under Section 164 Cr.P.C. In his statement, he alleged that while he was returning with the victim and was going to his house by a scooty, on way his friend had informed that he had a quarrel in the morning with the stationery shop owner (this petitioner) and his nephew Suraj Kumar. It is alleged that while they were going on the scooty, from behind Suraj Kumar came and penetrated a knife near his waist and fled away, thereafter he again came but this witness had concealed himself in a mobile shop and informed the maternal uncle of the deceased and went to house.

Learned counsel submits that the statement of Roshan Kumar at best demonstrates that Suraj is the sole assailant and it was the knife injury caused by him which had proved fatal to the deceased. It is submitted that nobody had seen any quarrel between the deceased and this petitioner and the statement alleging that there was a quarrel between the petitioner and the deceased in the afternoon has not found support from any eye-witness in course of investigation.



Learned counsel further submits that in course of investigation police has found CCTV footage and in the CCTV footage also this petitioner has not been found involved in the alleged occurrence.

Learned APP for the State has opposed the prayer for anticipatory bail of the petitioner. It is stated that in course of investigation the hearsay witnesses have said that they came to know that a quarrel had taken place between the stationery owner and the assailant on the one hand and the victim on the other hand. Learned APP submits on query made by this Court that they are the hearsay witnesses and in CCTV camera as well as the statement of the witness Roshan Kumar no overt act has been alleged against this petitioner. He has not been identified involving in the commission of the alleged offence when Suraj Kumar had allegedly assaulted the deceased.

Having regard to the facts and circumstances of the case, wherein the statement of the witness Roshan Kumar shows that the assailant of the deceased is Suraj Kumar who had allegedly penetrated the knife and has been identified in CCTV camera also whereas this petitioner has not been found in the CCTV camera and his name has come only as being uncle of said Suraj Kumar, and further that said Suraj Kumar has been allowed bail after he was found juvenile which has come in paragraph '110' of the case diary and the petitioner has otherwise no criminal antecedent, let in case of his arrest or surrender the petitioner above-named within a period of four weeks from today in connection with Ram Krishna Nagar P.S. Case No. 599 of 2018 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 A.C.J.M.-cum-Sub Judge XIII at Patna, subject to the condition 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.

The application stands allowed.

(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'.

