

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35889 of 2020

Arising Out of PS. Case No.-1094 Year-2019 Thana- PHULWARISHARIF District- Patna

Binod Nonia @ Binod Mahto, aged about 30 years, male, S/o Late Raj Kumar Mahto, Resident of Village-Kumhar Toli, Uttari Sangat, P.S.-Phulwarisharif, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Sinha, Adv.
For the Informant	:	Mr. Deepak Kumar Singh, Adv.
For the State	:	Mr. APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 24-07-2021 Heard Mr. Vijay Kumar Sinha, the learned

Advocate for the petitioner and Mr. Deepak Kumar Singh,

the learned counsel for the informant. The State is

represented by the learned APP.

The petitioner seeks bail in connection with

Phulwarisharif P.S. Case No. 1094 of 2019, which was

initially instituted for the offences under Sections 363 and



365 of the Indian Penal Code but later, Section 302 was also added with the recovery of the dead-body of the child.

The learned counsel for the petitioner has submitted that except for the confession of three of the accused persons, there is no other material to connect the petitioner with the offence.

He further submits that the petitioner is in custody since 10.01.2020, but the charges were not framed till about April, 2021.

The learned counsel for the petitioner does not have an exact idea about the status of the case as on date.

It has been urged on behalf of the petitioner that some of the persons who have been named in the confession of arrested accused persons have been released on bail by other coordinate Benches of this Court.

As opposed to the aforesaid contention, Mr. Deepak Kumar Singh, the learned counsel for the informant has pointed out that the dead-body of the child was recovered pursuant to the confession of one Sanoj, Chaitu and Deepak. Therefore, if that part of the statement which



has led to discovery is admissible in evidence, then for the purposes of bail, this Court would like to see the conduct of the petitioner in conspiring and killing the deceased and concealing the dead-body at a place from where it could not have been easily recovered. The dead-body was found in an absolute decomposed condition.

He has further submitted that the brutal manner in which the murder has been committed would reflect that the petitioner has acted in cold blood without any qualms. This is not a venial but an unpardonable offence.

In response to the aforesaid argument, the learned counsel for the petitioner has drawn the attention of this Court to the supplementary affidavit in which he has annexed various orders of this Court granting bail to other accused persons. Some of the accused persons however, who have made confession before the police, have been refused bail by other Benches of this Court.

However, regard being had to the fact that the petitioner's implication in this case is on the basis of confession and he is in custody since 10.01.2020 and that



some of the other accused persons of this case, who too were named in the confessional statement of arrested accused persons, have been granted the privilege of bail, this Court is inclined to admit the petitioner bail, subject to certain conditions.

The petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IX, Patna in connection with Phulwarisharif P.S. Case No. 1094 of 2019.

It is but directed that in case the petitioner does not participate in the trial or remains absent on two consecutive occasions, without any justifiable cause or permission from the Trial Court, the bail granted to him shall be rendered liable to be cancelled. The petitioner shall not leave the territorial confines of the district where the trial is being conducted, without the prior permission of the Trial Court. If he does so, the Trial Court would be under an obligation to cancel the bail of the petitioner after following



the procedure prescribed under the law.

With the aforesaid observation/direction, the application stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

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