

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 30275 of 2020

Arising Out of PS. Case No.-114 Year-2019 Thana- Sahpur District- Patna

Manni Kumar, aged about 25 years, (M) son of Late Devi Dayal Singh,
Resident of Village- Usri, P.S.-Sahpur, Distt - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	: Mr. N.K. Agrawal, Sr. Advocate. Mr. Amresh Kumar Sinha, Advocate Mr. Preeti Kunwar, Advocate.
For the Opposite Party/s	: Mr. Madan Kumar, APP
For the Informant	: Mr. Mithilesh Kumar Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

3 26-08-2021 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the Ld. Senior counsel for the petitioner, Shri N.K. Agrawal, assisted by Shri Amresh Kumar Sinha as also the learned A.P.P. for the State, Shri Madan Kumar and the learned counsel appearing for the informant, Shri Mithilesh Kumar Upadhyay.

The  regular bail in connection with

Sahpur P.S. Case No. 114 of 2019, for the offence punishable under Section 302/34 of the Indian Penal Code.

The allegation is regarding the accused persons including the petitioner herein having cut the neck of the husband of the informant, after an altercation had taken place in the wheat field of the informant.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and is languishing in custody since 22.05.2019. It is stated that the only material available on record, which has come during the course of investigation by the police, is the statement of the witness, namely Kaleshwari Devi, who claims to be the eye witness of the alleged occurrence and she has stated in her statement before the police that the mother of the petitioner namely Sushma Devi had cut the neck of the husband of the informant. The Ld. Sr. Counsel for the petitioner has submitted that though the alleged occurrence took place on 25.03.2019, the statement of the said Kaleshwari Devi was recorded only on 21.4.2019 belatedly, hence such delay is fatal to the case of the prosecution, thus it is submitted that



is required to be extended for the

purposes of grant of regular bail to the petitioner.

Per contra, the learned APP appearing for the State has submitted that wire similar to the copper wire, by which the neck of the deceased was cut, has been recovered from the cabin situated in the premises of the accused persons. The learned counsel for the informant, Shri Mithilesh Kumar Upadhyay, has submitted that the witness namely Kaleshwari Devi has clearly stated in her statement made before the police that the mother of the petitioner had cut the neck of the husband of the informant, while the petitioner had caught his hand, hence the complicity of the petitioner is writ large.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials on record as also those available in the case diary, this Court finds that though the witness namely Kaleshwari Devi, in her statement made before the police, has taken the name of the mother of the petitioner to be the main accused in the present case and the petitioner and other accused persons have also been stated to have engaged in abetting the crime, nonetheless, I find that the statement of th

ri Devi has been recorded by the



police belatedly, which in any view of the matter has got no evidentiary value in the eyes of Law, apart from the fact that the petitioner is languishing in custody since more than two years and is also having a clean antecedent, hence, I find that benefit of doubt can be extended to the petitioner for the purposes of grant of regular bail, thus, I deem it fit and appropriate to grant the privilege of bail to the petitioner.

Accordingly, the petitioner, above-named, is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned court of A.C.J.M. I, Danapur in connection with Sahpur P.S. Case No. 114 of 2019.

(Mohit Kumar Shah, J)

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