

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32039 of 2020

Arising Out of PS. Case No.-338 Year-2019 Thana- UDWANTNAGAR District- Bhojpur

BABUDHAN SHAH Son of Motilal Shah Resident of Village- Chhoti
Sasaram, P.S.- Udwanthnagar (Gajrajganj), District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikramdeo Singh

For the Opposite Party/s : Mr. B. N. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 03-02-2021 Heard both sides.

Certified copy of FIR of Udwanthnagar (Gajrajganj)

P.S. case No. 388 of 2019 (Annexure-2) has been filed.

Let the same be kept on record.

The petitioner seeks bail in Udwanthnagar (Gajrajganj)

P.S. case No. 338/ 2019 registered u/s 302, 201, 120B/34 of the
IPC.

Dhanji Sharma, brother of the deceased, alleged that
on 25.08.2019 Mangani Singh took his brother, Dhan Kishore
Sharma, along with him but dead body of his brother was found
in the field of Amma Mohammadpur village. The informant
suspected the hands of Khabar Sah, Babudhan Sah, the
petitioner, Mangani Singh and Vishnu Singh in killing of his
brother.



The learned counsel for the petitioner submits that the prayer for bail of the petitioner was earlier rejected by Hon'ble the Chief Justice vide order dated 18.12.2019 passed in Cr. Misc. No. 81172/2019. The petitioner again filed this petition for grant of bail and the petition was listed before Hon'ble the Chief Justice but by order dated 02.12.2020 the case was ordered to be listed before an appropriate Bench after not treating the case as tied up matter. Thereafter, another Bench ordered for listing the case before an appropriate Bench and thereafter the case is listed before this court. It is submitted that save and except suspicion there is no material against the petitioner. Mangani Singh, who is alleged to have taken the deceased with him on the pretext of giving remaining consideration amount of the sold land, has already been enlarged on bail vide order dated 20.02.2020 passed in Cr. Misc. No. 515/2020. Vishnu Singh has also been granted bail vide order dated 28.05.2020 passed in Cr. Misc. No. 6010 of 2020. The case of petitioner stands on better footing than that of Mangani Singh. It is further submitted that save and except confessional statement of Vishnu Singh there is no material against the petitioner to show the involvement of the petitioner in the case.



Mr. B. N. Pandey, the learned APP, submits that Vishnu Singh confessed his guilt and disclosed that Mangani Singh, Khabar Sah, Vishnu Singh and the petitioner assembled at a place situated in village Mohammadpur and thereafter they all killed Dhan Kishore Sharma with sharp edged weapon. It is further submitted that from perusal of paragraph 92 of the case diary it would appear that police got the tower location of mobile No. 9304975927 of petitioner and found the tower location near the place from where the dead body was recovered. It is submitted that this fact has not been brought to the notice of the court while granting bail to Mangani Singh and Vishnu Singh, therefore, the petitioner does not deserve bail.

Having heard the submissions of both sides and on perusal of the records, it is evident that, of course, the petitioner is named in the FIR but the informant, brother of the deceased, only suspected that since the petitioner and other accused persons had altercation with the deceased they might have killed his brother. Even during the course of investigation, no tangible material is brought save and except confessional statement of Vishnu Singh. The police did not collect any further tangible material on the basis of disclosure made in the confessional statement of Vishnu Singh. From perusal of paragraph 92 of the



case diary, it appears that location of the mobile of the petitioner was found in Navanagar whereas the dead body was recovered in the field of village Amma Mohammadpur and not in the field of village Navanagar. Tower location of the mobile of the petitioner also does not appear to show the presence of the petitioner in the vicinity of place of occurrence. Similarly situated accused Mangani Singh, who is said to have taken the deceased with him, has already been granted bail.

Considering the facts aforesaid and the nature of allegation made against the petitioner, the petitioner, above named, is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bhojpur, Ara in connection with Udwantnagar (Gajrajganj) P.S. case No. 338/ 2019.

(Prabhat Kumar Jha, J)

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