

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31945 of 2020

Arising Out of PS Case No.-34 Year-2020 Thana- SURSAND District- Sitamarhi

Md. Nasir @ Kankhal, aged about 22 years (Male), Son of Md. Israil Darji,
Resident of Village - Parsa (Kumha), PS- Sursand, District – Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Jha, Advocate
For the State	:	Mr. Nagendra Prasad, APP
For the Informant	:	Mr. Uday Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 23-03-2021

Heard Mr. Ashok Kumar Jha, learned counsel for the petitioner; Mr. Nagendra Prasad, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Uday Kumar, learned counsel for the informant.

2. The petitioner apprehends arrest in connection with Sursand PS Case No. 34 of 2020 dated 24.01.2020, instituted under Sections 302 and 201 of the Indian Penal Code.

3. The allegation against the petitioner, though not named in the FIR, along with others, is of killing the brother of the informant.

4. Learned counsel for the petitioner submitted that besides having no criminal antecedent, he has been made accused



without there being any legal evidence against him. It was submitted that the FIR is against unknown persons and the police had arrested one Md. Ashfaque and Md. Edue, who were last seen with the deceased and they have made their confessional statement before the police stating that the role of the petitioner in the murder of the brother of the informant was that he along with another co-accused had tied the neck of the deceased with a *gamcha* and had tightened it leading to strangulation. It was submitted that except for the confessional statement of the said two arrested co-accused, no other evidence has come during police investigation. Further, it was submitted that no motive has been assigned as to why the petitioner would be a party to such a heinous crime.

5. Learned APP, from the case diary, submitted that both the arrested persons had specifically stated with regard to the petitioner being one of the persons who had actually strangled the deceased.

6. Learned counsel for the informant submitted that the version in the confessional statement is corroborated by the postmortem report where mark of strangulation has been found on the neck and cause of death is also strangulation. Learned counsel submitted that there is also no reason for false implication of the



petitioner. Learned counsel submitted that application for regular bail of co-accused Md. Ashfaque and Md. Edue has been recently rejected by a co-ordinate Bench.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.

8. Accordingly, the application stands dismissed.

9. However, on submission of learned counsel for the petitioner, it is observed that if the petitioner appears before the Court below and prays for bail, within four weeks from today, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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