

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32263 of 2020

Arising Out of PS. Case No.-123 Year-2020 Thana- HARNAUT District- Nalanda

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AJIT KUMAR @ BIPIN KUMAR S/o Chote Lal Prasad Resident of Village-Missi, P.S.-Bakhtiyarpur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Mahendra Prasad S/o Ishwar Mahto Resident of Village-Khirbhajna, P.S.-Varasganj, District-Nalanda.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shourya Sanyal

For the Opposite Party/s : Mr.Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 05-01-2021 Heard learned counsel for the parties.

This application for regular bail arises out of Harnaut (Kalyanbigha) P.S. Case No. 123 of 2020, disclosing offences punishable under Sections 302/201 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act.

According to the First Information Report, the informant's son had come from Bhopal on the occasion of Holi and during the festival, certain disputes had arisen between the deceased and three persons other than the petitioner, namely, Manish Kumar, Manoj Kumar and Rajesh Ram. Later, the dead body of the deceased was found lying by the side of a road by the police. The petitioner's name surfaced during the course of



investigation primarily on the basis of Call Detail Record (CDR) showing different locations of the petitioner and the victim in different points of time in close proximity, including at the time of occurrence. It has been inferred on the analysis of CDR that the petitioner and the victim were moving together (present in close proximity with each other), uptill the time and the place of occurrence.

It appears from the case diary that the petitioner confessed his guilt before the police and vividly described the manner in which he had committed the offence. As recorded in the confessional statement, the petitioner was allegedly having amorous relationship with the wife of the deceased which was the reason why the petitioner killed the deceased.

Mr. Subro Sanyal, learned counsel appearing on behalf of the petitioner has submitted that it cannot be even a case of last seen and the petitioner's physical proximity with the deceased has been wrongly inferred by the police on the basis of information furnished by a private mobile Company to the police. He has further submitted that the electronic record in the name of CDR does not have any evidentiary value in the absence of certificate issued in accordance with the provisions under Section 65-B(4) of the Evidence Act, 1872 Act in the



light of Supreme Court's decision in case of **Arjun Panditrao Khotkor Vs. Kailash Khshanrao Gorantyal** reported in **(2020) 7 SCC 1 (para 61)**.

I have carefully perused the case diary. The confessional statement of the petitioner recorded by the police appears to have been corroborated by the CDR collected by the police during the course of investigation. The petitioner is said to have given vivid description before the police of the manner in which the offence was committed in his confessional statement which is corroborated by other materials available on record.

In the aforesaid background, considering the gravity of the offence alleged, I am not inclined to grant the petitioner the privilege of regular bail for the present.

This application is rejected.

The petitioner shall be at liberty to renew his prayer for bail after six months, if the charge is not framed, in the meanwhile.

(Chakradhari Sharan Singh, J)

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