

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 33007 of 2020

Arising Out of PS Case No.-595 Year-2019 Thana- SUPAUL District- Supaul

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Mirchu @ Mirchu Sada @ Fulo @ Fuleshwar Yadav, Male, aged about 45 years, Son of Late Rajendra Yadav, Resident of Village- Mohania, PS- Supaul, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Akhouri Vipin Bihari Shrivastava, Advocate
For the State : Mr. Anant Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 26-03-2021

Heard Mr. Akhouri Vipin Bihari Shrivastava, learned counsel for the petitioner and Mr Anant Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner is in custody in connection with Supaul (Lokaha OP) PS Case No. 595 of 2019 dated 02.09.2019, instituted under Sections 302/34 of the Indian Penal Code.

3. The allegation against the petitioner and another named accused is that they had taken the husband of the



informant, who is the deceased, with them in the morning and when in the evening, he did not return and she had gone to ask them, she was told to look for him near the canal but he was not located and the next morning, the body was recovered by the side of the canal.

4. Learned counsel for the petitioner submitted that there is absolutely no motive for the petitioner to kill the deceased and further if there was any strong dispute, the deceased would not have gone with the petitioner as has been alleged. Learned counsel submitted that there is no witness to the crime and at best, it is a case of last seen. It was pointed out that the very theory that the petitioner may have killed the deceased because he was not returning the money is falsified from the fact that had the same been true then the petitioner would only have harmed him to the extent that he was alive for the reason that if the deceased was killed then the petitioner would have lost the money which he has now lost and, thus, he would not have killed him to lose the money and may have assaulted and threatened him to return the money. It was submitted that similarly situated co-accused Chalittar Sada @ Charittar Sada has been granted bail by a co-ordinate Bench by order dated 08.06.2020 in Cr. Misc. No. 6256



of 2020, after being in custody for about 10 months whereas the petitioner is in custody since 05.03.2020 i.e., over a year.

5. Learned APP, from the case diary, submitted that witnesses have supported the allegation that due to dispute with regard to return of money by the deceased, the petitioner and the other accused had killed him. However, he did not controvert that all the witnesses are hearsay witnesses.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Supaul in Supaul (Lokaha OP) PS Case No. 595 of 2019 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and he shall co-operate with the Court. Any violation of the terms and conditions of the bonds or failure to co-operate shall lead to cancellation of his bail bonds.

7. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate



action on the same after giving opportunity of hearing to the petitioner.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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