

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32029 of 2020

Arising Out of PS. Case No.-337 Year-2018 Thana- CHIRAIYA District- East Champaran

Chhotu Sah @ Amit Kumar, aged about 30 years M, Son of Nagendra Sah,
resident of Village- Arariya, P.S.- Kundwachainpur, District - East Champaran
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate
For the State : Mr. Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 18-05-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Umesh Chandra Verma, learned counsel for the petitioner and Mr. Jai Narain Thakur, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Chiraiya PS Case No. 337 of 2018 dated 06.09.2018, instituted under Sections 302, 201/34 of the Indian Penal Code.

4. The allegation against the petitioner and four others is of having taken the son of the informant on the pretext of having tea, from the Court premises where the petitioner and others were seeking bail on the basis of a compromise between the informant and the petitioner's side, at 1.00 PM and



thereafter, he did not return and later on, in the evening, the dead body of the son of the informant was recovered from near the canal and, accordingly, it is alleged that the petitioner and the co-accused had killed the son of the informant.

5. Learned counsel for the petitioner submitted that there was compromise between the parties and on the said date, bail application was moved at 2.30 PM and allowed and the bail bonds were accepted at 4.30 PM and surrender slip was given at 5.00 PM and, thus, taking away of son of the informant at 1.00 PM from the Court premises cannot be believed. It was further submitted that as the parties had compromised, there was no occasion for the petitioner to commit the murder of the deceased. It was submitted that the petitioner has been falsely implicated.

6. Learned APP, from the case diary, submitted that the petitioner and other co-accused have to explain the circumstances as there is direct allegation that at 1.00 PM, they had taken the deceased, son of the informant, to have tea and thereafter he did not return. It was submitted that in the FIR, it is not alleged that the petitioner also did not return after going with the son of the informant and, thus, the son of the informant having gone with the petitioner at 1.00 PM and the petitioner



surrendering before the Court at 2.30 PM does not falsify the prosecution case as one and half hours is a good time and most importantly, the son of the petitioner could have been handed over to some other persons by the petitioner and the co-accused, and it is for the petitioner to explain as to what happened to him since he had taken the son of the informant with him at 1.00 PM from the Court premises. Further, it was submitted that there is no occasion for the informant to falsely implicate the petitioner and other co-accused if, at all, they were innocent, especially, in view of the compromise, since the dispute had been settled between the parties and, thus, there was no occasion for any false implication and also that the informant would not protect the real culprit by specifically accusing the petitioner and other co-accused and not pointing any finger to any other person and even unknown persons. It was submitted that witnesses have also supported the fact that the son of the informant was taken by the petitioner and other co-accused from the Court premises. Learned counsel submitted that the petitioner is also accused in Ghorasahan PS Case No. 349 of 2018 instituted under Sections 341, 323, 325, 457, 380/34 of the Indian Penal Code. Learned counsel submitted that it has also come that the petitioner had absconded in the matter and only when processes were issued



for his appearance, in February, 2020, he has moved seeking anticipatory bail. It was submitted that the petitioner cannot be said to be unaware of the present case as the parties were in close proximity, especially after the compromise and the said incident is of the same day when the petitioner had obtained bail on the basis of such compromise from the Court below.

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. Interim protection given to the petitioner by order dated 06.04.2021 stands vacated.

(Ahsanuddin Amanullah, J)

J. Alam/-

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