

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33887 of 2020

Arising Out of PS. Case No.-136 Year-2020 Thana- DESARI District- Vaishali

POOJAN KUMAR S/o Shri Ganesh Mahto Resident of Village-Nayagaon
Paschami, P.S-Desari, District-Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Malay Kumar Choudhary,Adv

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

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 08-01-2021 Heard the parties.

Petitioner seeks bail in a case registered for the offences punishable under Sections 302,201,34 of the Indian Penal Code.

According to first information report at about 8.00 P.M. on 03.06.2020, the informant saw that on a motorcycle, co-accused-Rahul Kumar @ Harihar and this petitioner was there. In between Rahul Kumar @ Harihar and this petitioner, Niraj Kumar was sitting and they all went somewhere on the said motorcycle. At about 10.00 P.M., one Suraj Rai got information from co-accused-Rahul Kumar that Niraj Kumar is missing. In the morning, dead body of Niraj was found. Hence, it was suspected that the petitioner and Niraj Kumar have committed murder of the victim. The Doctor found a case of strangulation.



The case diary would reveal that besides the informant there is no other eye witness to claim that three were seen together rather witness-Nelu Rai stated that the deceased was seen on a motorcycle alongwith Sher Singh Son of Surendra Rai @ Bhonu. The case diary does not reveal any motive for commission of the crime by the petitioner nor there is any enmity with witness-Nelu Rai.

Learned counsel for the informant opposed the prayer for bail on the ground that investigation is a faulty investigation and partial to exonerate the accused persons. The police did not obtain call details of the mobile phone of Niraj Kumar even after direction by the superior authorities and submitted chargesheet hurriedly.

The petitioner is in custody since 06.06.2020. Investigation of the case is already complete. Only material against the petitioner is suspicion based on last seen circumstance. There is no material to substantiate any motive against the petitioner for commission of crime. Though motive is not relevant in a criminal matter, however, in the case of circumstantial evidence, absence of motive assumes importance.

Hence, in my view, there is no need for further detention of the petitioner as undertrial prisoner, let the



petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Desari Police Station Case No.136 of 2020 with following conditions:

(a) Both the bailors shall be resident of territorial jurisdiction of the learned Court-below.

(b) The petitioner shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(c) The petitioner shall not leave the country without permission of the trial Court.

(Birendra Kumar, J)

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