

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34119 of 2020

Arising Out of PS. Case No.-383 Year-2018 Thana- BARARI District- Katihar

Sanjay Chaudhary, S/o- Mangan Chaudhary, R/o- Bandhtola, Marghiya, P.S.-
Barari, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Singh, Adv.

For the Opposite Party/s : Mr.Chandra Sen Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-01-2021 Heard learned counsel for the petitioner and Mr.
Chandra Sen Prasad Singh, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Barari P.S. Case No.383 of 2018 registered for the offences punishable under Section 302 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per the prosecution story the dead body of one and half year old son of the informant was found near the house of one Hareram Chaudhary on road side, the deceased had two deep cut injuries on his head. The informant says that at about 50-60 feet from his house the railway line is passing on. He raised a suspicion against this petitioner saying that the petitioner had old enmity, he is a neighbour of the informant and about one month back the



son of the elder brother of the informant was also found dead, the informant and others thought that the said boy had come in contact with the running train and died because of that, therefore he had not lodged any case, it is then alleged that on the date of occurrence the informant had found the petitioner moving around his house, he was abusing and threatening the informant saying that he had killed one boy earlier and now he will kill the another boy also. The informant says that his son was sleeping on the 'Machan' (a kind of platform erected in a tree, a raised platform) near his house thereafter his dead body was found. He claims that this petitioner has killed his son.

Learned counsel for the petitioner submits that the entire allegation is false and baseless. Nobody has seen this petitioner with the boy and in course of investigation not a single witness has come forward to say that this petitioner was found moving around the 'Machan' during the evening time. Learned counsel submits that according to the informant the boy was sleeping on a 'Machan' which is a kind of an elevated platform and in course of investigation it has come that at the distance of 50-60 feet from the railway line the said 'Machan' was established and there is every possibility that one and half year old boy who was sleeping there alone may slip down from the 'Machan'.



Learned counsel submits that in course of investigation police has found that the place of occurrence is situated near the railway line at a distance of 15-20 feet and the people have made a portion of that area for crossing the railway line, it has come in the case diary that near the 'Machan' itself blood were found on the earth and given the kind of place narrated in paragraph '18' of the case diary, fall from the 'Machan' cannot be ruled out.

Learned APP for the State has opposed the prayer for regular bail of the petitioner. Learned APP submits that the informant and his family members have raised strong suspicion against this petitioner, however, on query made by this Court, learned APP is unable to demonstrate from the case diary that either from the family of the informant or anybody else from the village has seen this petitioner nearby the 'Machan' during the evening time, in course of investigation no independent witness has come to say that during the day time on the alleged date this petitioner was threatening the informant.

Having regard to the facts and circumstances of this case, in the nature of the materials placed before this Court, the description of the place of occurrence as reported in paragraph '18' of the case diary and that neither the family members nor



any independent witness has seen this petitioner nearby the 'Machan' on which the boy was sleeping alone during the evening time and that the petitioner has otherwise no criminal antecedent, he has remained in jail for almost one year, investigation against him is complete and there is no submission on behalf of the State that his release is likely to result in tampering with the evidence or interfering with the course of trial, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Katihar in connection with Barari P.S. Case No.383 of 2018 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or



tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

Case diary has been returned.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

