

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36764 of 2020

Arising Out of PS. Case No.-28 Year-2020 Thana- ADHAOURA District- Kaimur (Bhabua)

TUFANI PASWAN son of LATE GANESH PASWAN Resident of Village-
Dawanpur, P.S.- Bhagwanpur, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajani Kant Pandey, Advocate
For the Opposite Party/s	:	Mr. Surendra Kumar, APP
For the Informant	:	Mr. Ashok Kumar Garg, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 15-03-2021 Heard Mr. Rajani Kant Pandey, learned counsel for the petitioner and Mr. Ashok Kumar Garg for the informant. The State is represented by Mr. Surendra Kumar, learned APP.

The petitioner seeks bail in connection with Adhaura P.S. Case No. 28 of 2020 dated 19.04.2020 instituted for the offences under Sections 302 and 34 of the Indian Penal Code.

It has been alleged in the FIR by the father of the deceased that his son had gone out of the house on 16.04.2020 at about 8 o' clock with an assurance that he shall return in the night but he never returned. On search, an information was received after about two days that the son of the informant has been killed. The informant went to the place where the dead body was



found and it was discerned that his son had been killed by slitting his throat.

Learned counsel for the petitioner has submitted that the FIR is against unknown. No suspicion also was raised against the petitioner at the time of lodging the FIR.

Later, the wife of the deceased whose statement finds place in the investigation papers has stated that she had been working as a Vikas Mitra but in her absence, her husband (deceased) was carrying on an affair with one Sandhya Devi.

Aforesaid Sandhya Devi is the daughter of an erstwhile naxalite who had been killed in a police encounter. The petitioner is stated to be a friend of the father of aforesaid Sandhya Devi who in the past is alleged to have come to the house of the deceased and had threatened him of dire consequences in case aforesaid Sandhya Devi did not mend her ways and stopped meeting the deceased in future. Later, aforesaid Sandhya Devi got married to another person but the relationship of the deceased with Sandhya Devi continued even thereafter. In this context, the wife of the deceased has expressed suspicion that the deceased might have been killed at the hands of her husband and the petitioner who, at one point of time, had advised the



deceased not to keep any contact with Sandhya Devi.

Learned counsel for the petitioner submits that even if this statement is accepted to be correct so far as the petitioner is concerned, the petitioner can only be said to have shown an avuncular concern for the daughter of his slain friend. Merely because of this fact, the accusing finger at him by the informant is only based on suspicion and nothing else.

Apart from this, learned counsel for the petitioner has submitted that if at all any person could have any grudge against the deceased for his having kept relationship with aforesaid Sandhya Devi, it would be only the husband of aforesaid Sandhya Devi and none else.

Apart from this, it has been submitted that in the entire investigation, except for some of the witnesses making similar statements, there is no other tangible material to connect the petitioner with the offence.

As opposed to aforesaid contention, Mr. Garg, learned counsel for the informant has pointed out that Sandhya Devi has given a detailed/graphic statement in her confession in which she has attributed the role of killing the deceased to the petitioner. He has further submitted that the petitioner has a tainted background



and had been made accused in several cases.

In response to the aforesaid argument, learned counsel for the petitioner has pointed out that in almost all the cases except for five cases which are still pending, the petitioner has been acquitted. In the pending five cases about which reference has been made in paragraph-3 of the bail petition, the petitioner is on bail.

Regard being had to the aforestated facts and taking into account that the petitioner is in custody since 25.04.2020, this Court is inclined to grant bail to the petitioner. While saying so the Court has also taken note of the fact that the husband of Sandhya Devi, one of the co-accused persons of this case, has been granted bail on an earlier occasion.

The petitioner, for the aforestated grounds, is directed to be released on bail on his furnishing bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Kaiumar at Bhabua in connection with Adhaura P.S. Case No. 28 of 2020.

The release of the petitioner shall be subject to the conditions noted hereinafter:

One of the bailors of the petitioner shall be his close relative.

The petitioner shall not absent himself from the



trial proceedings on two consecutive occasions without seeking prior permission of the trial court. Should he do so, the trial court will proceed for cancellation of his bail.

The petitioner shall not tamper with the evidence or shall intimidate any witness or shall do anything to impede the pace of trial. Should he be found doing so, it would be open for the Investigating Officer of this case to file a suitable application before the trial court for cancellation of his bail.

While furnishing bail bonds, the petitioner shall give his mobile telephone number as well as the mobile telephone numbers of his bailors, which shall be kept in operative condition.

The petitioner shall also get his presence marked before the officer-in-charge of the concerned police station once every month, preferably on the first Monday. The officer-in-charge of the concerned police station shall not unnecessarily make the petitioner wait in the police station and shall immediately record his presence on his visiting the police station.

The petition is disposed off accordingly.

(Ashutosh Kumar, J)

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