

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37739 of 2020

Arising Out of PS. Case No.-168 Year-2020 Thana- MADHUBAN District- East
Champaran

=====

Kameshwar Yadav S/o Krishndev Prasad Yadav @ Krishndev Rai R/o
Village Banjariya, P.S.- Madhuban, District- East Champaran

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Patanjali Rishi, Adv.
For the Opposite Party/s : Ms. Asha Devi, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 26-03-2021 Heard Mr. Patanjali Rishi, learned counsel for the

petitioner and Ms. Asha Devi, learned APP for the State.

The petitioner seeks bail in connection with

Madhuban P.S. Case No. 168 of 2020 instituted for the

offences under Sections 302, 201, 120B, 427/34 of the

Indian Penal Code and Sections 302, 120B and 34 of the

Indian Penal Code.

The mother of the deceased has lodged the First

Information Report alleging that her son (deceased) was

killed and was hanged from a tree in the field. She has

raised suspicion against many persons including the



petitioner and has also stated that because of an old dispute regarding passage of land, her son has been killed.

During the course of investigation, the informant gave her re-statement in which she has categorically stated that the deceased was her youngest son. There was some dispute with respect to a passage of land with one Jitendra Rai and Motilal Rai. About two to three days prior to the occurrence, they had come to her house and had threatened her of dire consequences. On another day, the accused persons, namely, Arvind Choudhary, Chhotu Yadav, Chandan Choudhary and Arun Kumar Yadav again came to her house and started looking for the deceased. When it was asked from them as to why they were looking for the deceased, they are said to have told the informant that one Dinesh Rai and the petitioner and had called the deceased. It is on the basis of the afore-noted statement of the informant that the petitioner is sought to be prosecuted in this case.

Learned counsel for the petitioner has drawn the attention of this Court to the fact that another son of the informant has not taken the name of the petitioner but has



only referred to one Dinesh Rai.

There is no eye-witness to the occurrence. The dispute with respect to the passage of land is also not with the petitioner but with two other persons, namely, Jitendra Rai and Motilal Rai.

The petitioner is also not alleged to have gone to the house of the informant for threatening her to settle the dispute or else she would face evil consequences. Thus the only material against the petitioner is that the few of the accused persons, who had visited the house of the informant and were looking for the deceased, had told the informant that the petitioner and one Dinesh Rai were looking for him.

It has been urged, therefore, that this cannot be the basis for keeping the petitioner in continued incarceration.

The petitioner is in custody since 08.06.2020 and there is no substantial progress in the case before the court below.

The petitioner does not have criminal antecedents.



Considering the entire set of facts, he is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate East Champaran, in connection with Madhuban P.S. Case No. 168 of 2020 subject to the following conditions:-

(i) that one of the bailors shall be a close relative of the petitioner;

(ii) that the petitioner shall, at the time of furnishing their bonds, give his mobile telephone number as well as the mobile telephone numbers of his bailors, which telephone numbers shall be kept in operative condition till the conclusion of the trial;

(iii) that the petitioner shall not leave the territorial confines of the Court which is trying the offence, without the consent of the Trial Court sought in advance; and

(iv) that the petitioner shall also get his presence marked before the Officer-in-Charge of the



concerned police station on the first Monday of
each month. The Officer-in-Charge of the
concerned police station is directed not to detain
the petitioner in the police station unnecessarily.

(Ashutosh Kumar, J)

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