

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6343 of 2021

Arising Out of PS. Case No.-79 Year-2020 Thana- KANKARBAG District- Patna

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PREM SAGAR @ PREM SON OF LATE PARMANAND PAL R/o village-
Mohanpur, P.S.- Punpun, District- Patna, At Present Resident of Jandhari
Chowk, Mahendru Moharri Lane, P.S.- Purbahore, District- Patna- 804453
... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Surendra Kishore Thakur, Advocate
For the Opposite Party/s : Dr. Indihar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 18-08-2021 Heard learned counsel for the petitioner and Dr.
Indihar Kumari, learned A.P.P for the State

Petitioner, in the present case, is seeking regular bail
in connection with Kankarbagh P.S. Case No. 79/2020
registered for the offence under Sections 302/34 of the Indian
Penal Code and Section 27 of the Arms Act, pending in the
court of Smt. Madhvi Singh, learned Judicial Magistrate - 1st
Class, Patna.

Learned counsel for the petitioner submits that the
petitioner is not named in the First Information Report. As per
the prosecution story, one Shiv Narayan Ram who was
Professor in T.P.S. College, Patna was shot dead by some
unknown criminals. Father of the deceased who lodged the
F.I.R. claims that his son had no enmity with anyone.

Learned counsel submits that the name of the petitioner transpired in course of investigation in the confessional statement of co-accused Dheeraj Kumar @ Dheeru and confessional statement of the petitioner has also been extracted in police custody.

Learned counsel further submits that co-accused Dheeraj Kumr @ Dheeru has been granted bail by a learned co-ordinate Bench of this Court in Cr. Misc. No. 19179 of 2021. It is further submitted that co-accused Virendra Kumar @ Virendra Ram who happened to be the own brother of the deceased and against whom there is allegation that because of the illicit relationship with the wife of the deceased he had planned the murder has also been granted bail by another learned co-ordinate Bench of this Court in Cr. Misc. No. 22134 of 2020.

Learned counsel for the petitioner further submits that another accused Shailendra Kumar who had allegedly acted to help his business partner Virendra Kumar @ Virendra Ram in getting rid of the deceased and had contacted the petitioner for contract killing has also been granted bail by another learned co-ordinate Bench of this Court in Cr. Misc. No. 21833 of 2020.

On the strength of the aforementioned submissions

learned counsel for the petitioner claims that the case of the petitioner is being similarly situated, the petitioner is fit to be enlarged on bail.

Dr. Indihar Kumari, learned A.P.P. for the State has argued the matter with her usual vehemence and preparedness with the case diary. She has brought to the notice of this Court the materials which have been collected in course of investigation and those are independent materials which have surfaced because of some scientific investigation conducted by the Investigating Officer of this case.

Learned A.P.P. submits that the involvement of the petitioner is not on the basis of mere confessional statement of the co-accused. In fact what is stated in the confessional statement is getting support from independent materials in form of CCTV footage of the alleged occurrence and analysis of the CDR of the mobile phones of the accused persons involved in this case. Thus, according to her, even if the confessional statement is not looked into, the independent materials are enough to take a view in this matter.

She has read out the complete CDR analysis of the mobile phone of the petitioner and the co-accused which shows that on the alleged date of occurrence this petitioner had given

at least two calls in the morning hour to co-accused Dheeraj and thereafter both of them had gone on the Scooty which has been noticed in the CCTV footage, as planned the co-accused Vikash and Amarjeet were also called on their respective mobile phones and then they had assembled at one place near the place of occurrence, the tower location of the mobile phone of all the four accused are showing their presence on the said place, the CCTV footage has shown how one of them (allegedly this petitioner) had entered in the lane of the deceased with the Scooty and thereafter co-accused Vikash and Amarjeet had entered on a motorcycle and then the killing was executed.

Learned A.P.P. submits that after the work was done the call records show that this petitioner had talked to co-accused Shailendra and the mobile phone connections of all the co-accused are showing that they were talking to each other. In the confessional statement the petitioner and other co-accused have stated the manner of occurrence which tally with the sequence of calls, tower locations and entry of the accused in the lane of the victim at the relevant time.

Vehemently objecting to the submission of learned counsel for the petitioner that the case of this petitioner is similarly situated with the co-accused who have been granted bail, learned A.P.P. submits that on a bare perusal of those orders of the learned

co-ordinate Benches it would appear that the Hon'ble Courts were not informed of the complete materials which were present in the case diary and the only fact which was brought to the notice of the Hon'ble Court was that the name of the co-accused have transpired in the confessional statement whereas there are several materials present in the case diary.

Considering the facts and circumstances of the case, the allegation that the petitioner had taken contract of killing, the seriousness of the offence alleged and the connectivity of the petitioner having been shown, it's being a gruesome murder with active participation of the petitioner which has transpired in course of investigation and the materials have been collected scientifically by the Investigating Officer, this Court is not inclined to release the petitioner on bail.

Prayer for regular bail of the petitioner is, thus, refused.

Let the trial be expedited.

(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'.