

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9049 of 2021

Arising Out of PS. Case No.-147 Year-2019 Thana- CHAORI District- Bhojpur

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Sameer Kumar, aged about 23 years, (Male), Son of Rakesh Kumar, Resident of Village - Painal, P.S.- Bihta, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Advocate
For the State : Mr. Bisheshwar Ram, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 06.08.2021, which was allowed.

3. Heard Mr. Dhananjay Kumar, learned counsel for the petitioner and Mr. Bisheshwar Ram, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Chauri PS Case No. 147 of 2019 dated 29.10.2019, instituted under Sections 302/120-B of the Indian Penal Code and 27 of the Arms Act, 1959.



5. The allegation against the petitioner, his father and mother, is that they under conspiracy had killed the son of the informant.

6. Learned counsel for the petitioner submitted that the allegation is totally unfounded and based only on suspicion. It was submitted that the allegation of there being love affairs between the sister of the petitioner and the deceased is not correct as she was aged only 14 years at the relevant time and since before the date of incident, she was studying at Mussoorie and was living in hostel, with regard to which a certificate has been granted by the school at Mussoorie. It was submitted that the learned Sessions Judge, Bhojpur in order dated 14.12.2020 in ABP No. 2394 of 2020 has noted that it has come during investigation that there was no good relation between both the sides and just before the alleged date of occurrence the deceased had gone with the sister of the petitioner to Delhi and returned back, is incorrect in view of the fact that the school authority at Mussoorie had certified that from many months prior to the date of incident and till December, 2019 the sister of the petitioner was in the hostel of the school. Learned counsel submitted that the body was recovered 70 kilometres from the village of the petitioner and further that the petitioner was pursuing B. Tech. from Kalinga Institute of Industrial Technology



(KIIT) at Bhubaneswar in the state of Odisha. It was submitted that the management of the KIIT has issued a certificate to the effect that prior to the date of incident and even after that the petitioner was present in the hostel in Bhubaneswar. Learned counsel submitted that even after the incident, the Superintendent of Police, Bhojpur had sent a team to KIIT to verify the fact and again a certificate has been issued by the Director of KIIT in which it has been stated that the petitioner was present in the hostel from 27.10.2019 to 29.10.2019 based on biometric records. Learned counsel submitted that in such view of the matter, when presence of the petitioner was confirmed by biometrics, it leaves no iota of doubt that he was not present at the village and was hundreds of kilometres away at Bhubaneswar. Learned counsel drew the attention of the Court to various photographs which show that the deceased brandishing country-made pistol and submitted that he had a criminal background. Further, reference was made to a news item which indicates that the petitioner along with others had assaulted the Branch Manager and another employee of the Oriental Bank after dragging them out of the car. Thus, learned counsel submitted that possibility of him being killed due to inter-gang rivalry cannot be ruled out whereas the petitioner and his family are simple law-abiding citizens and he has no other



criminal antecedent and presently pursuing his M. Tech. from KIIT.

7. Learned APP submitted that as per the FIR, the petitioner and his family members had conspired to kill the son of the informant who was shot dead.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, there appears to be strong indications of the petitioner not being present at the place of occurrence or near it and his sister also being at Mussoorie at the relevant time and he having no criminal antecedent and pursuing his studies at Bhubaneshwar, the Court is inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bhojpur, Ara in Chauri PS Case No. 147 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, and (ii) that the petitioner shall cooperate with the Court



and the police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

11. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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