

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9322 of 2021

Arising Out of PS. Case No.-223 Year-2019 Thana- KHAJANCHI HAT District- Purnia

Manish Kumar, Son of Nand Kishor Nayak, Village- Laxmipur, P.S.-
Sonbarsa, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Jitendra Narayan, Sr. Adv.
	:	Mr.Man Mohan Kumar, Adv.
For the Informant	:	Mr.Y.C. Verma, Sr. Adv.
	:	Mr.Verendra Kumar, Adv.
For the State	:	Mr.S.M. Rahman, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

3 29-07-2021 Heard learned senior counsel for the petitioner,

learned senior counsel for the informant and learned APP for the

State through virtual Court proceedings.

Let the defects, if any, be removed within two weeks
of the start of the physical Court.

The petitioner seeks bail in a case registered for the
offence punishable under Sections 302/34/120(B) of the Indian
Penal Code and Section 27 of the Arms Act.

Prosecution case, in brief, is that from the first wife of
deceased, deceased had blessed two daughters and one son.
After death of his first wife, deceased in 1991 solemnized
second marriage with the informant Anjani Devi and she was



also blessed one daughter and two sons. Deceased and his second wife gave expenditure of education of the deceased first wife's son. Both also solemnized marriage of both girls of deceased and his first wife. Vidya Bhushan Prasad, first wife's son of deceased was giving pressure on deceased and the informant for taking property. He used to threaten the deceased and the informant. After that informant with her family members started living in rented house at K.Hat Thana Chowk. After that step son of the informant started selling the ancestral property. The husband of the informant protested, selling the land then first wife's son threatened to kill him. One and half years ago Vidya Bhushan Prasad concealed his sister anywhere and filed false case of kidnapping against his father Hari Shankar Prasad also in which Hari Shankar Prasad was remanded in jail custody, Vidya Bhushan Prasad also kidnapped the brother of the informant, namely Ravi Shankar Kumar. In this regard a case in Kadamkuan Police Station was filed but till today Ravi Shankar Kumar has not been recovered by the police. One week ago Vidya Bhushan Prasad and his friend Sanjay Mahto, father-in-law (Sasur) Hardeo Mahta, brother-in-law (Sala) Mohan Kumar and Rohit Kumar, Pashpat Mahto and Gopal Kumar and others came at the house of the informant and



ordered to sell all ancestral land in the name of Vidya Bhushan Prasad. At that time, they also threatened to kill the informant's husband. On 30.03.2019 at about 8.30 A.M., the husband of the informant proceeded from house to Head Post Office then near Forest Office, Purnea, any one shot fire on him from back side and he died on place of occurrence. Informant has claimed that her step son Vidya Bhushan Prasad, his friend Sanjay Mahto, father-in-law Hardeo Mahto, brother-in-law Mohan Kumar and Rohit Kumar, Pashpat Mahto and Gopal Mahto, conspiring to each other, have killed her husband.

Learned senior counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not named in the FIR, he has been made accused during investigation on the basis of CDR but in fact the communication was in between wife of Vidya Bhushan and this petitioner. Except CDR there is no substantive or corroborative evidence against the petitioner. The informant is no eye witness of the occurrence. The petitioner is none else but the maternal uncle of Vidya Bhushan Prasad and brother-in-law of the deceased, have been no interest with the daily affairs of the informant rather due to relationship with the deceased the petitioner used to visit his house of an own which was disliked



by the informant and she was forbade by the deceased. The conduct of the deceased towards his son and brother-in-law (petitioner) was pinching in the eye of the informant. So hatching a conspiracy the informant has herself got her husband killed by a contract killer which was unseen by anybody including the informant and taking the advantage of situation the law has been set in motion by the informant only to put presser on his step son. So that Vidya Bhushan Prasad may give up the claim over the property of the deceased.

Learned senior counsel for the petitioner submits that apart from the CDR, no other material has surfest against the petitioner to make out the case under Section 302 of the Indian Penal Code even then his regular bail has been turned down by the Court below. The petitioner is languishing in judicial custody since 02.07.2020. The petitioner has got no criminal antecedent which is mentioned in para 3 of the bail petition. Charge-sheet has been submitted against the petitioner. There is no eye witness in the present only on confessional statement of co-accused petitioner has been made accused in the present case.

Learned senior counsel for the informant as well State vehemently opposed the prayer for bail of the petitioner and



submits that the petitioner on the confessional statement of co-accused he made accused in this case and in investigation, police has found sufficient evidence during scientific against the petitioner. He relied upon, on paragraphs 215 and 219 of the case diary shows that presence of the petitioner in the place of occurrence and date of occurrence which is confirmed by the CDRs. He further relied upon, on paragraph 273 of the case diary, on the confessional statement of co-accused he made accused. During investigation the police on the confessional statement and on the basis of CDRs, the petitioner has been made accused in the present case.

Learned senior counsel for the informant submits that the confessional statement of co-accused and CDRs report leads the petitioner accused in the present case. He is worked as a liner.

I have heard the parties, perused the record including the case diary, on paragraphs 215 and 219 of the case diary, it is only shows that the petitioner is present on the place of occurrence & date of occurrence. As per CDR, the tower location, the petitioner is found near the place of occurrence. In paragraph 273 of the case diary, the confessional statement of co-accused before the police only material available against the



petitioner which is not admissible in the eye of law.

Considering the aforesaid facts and circumstances of the case, petitioner is a liner in the present case, no other material against the petitioner, only on suspicion petitioner made accused in the present case. No eye witness in the present case and charge-sheet has been filed against the petitioner, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each in connection with K. Hat P.S. Case No. 223/2019 to the satisfaction of learned Court below where the case is pending/ successor Court.

(Anjani Kumar Sharan, J)

amitkumar/-

U		T	
---	--	---	--

