

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4649 of 2019

Arising Out of PS. Case No.-30 Year-2019 Thana- SC/ST District- Nalanda

KAMLESH KUMAR @ KAMLESH PRASAD Son of Late Sheo Lochan
Bhagat Resident of Village- Maira, Police Station- Dinara, District- Rohtas.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur
For the State	:	Mr. Sadanand Paswan
For the informant	:	Mr. Shyamal Prakash

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

14 05-03-2021

Heard both sides.

The appellant filed this appeal under Section 14 (1) (a)(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act against the order dated 21.09.2019 passed by learned 1st Additional Sessions Judge, Nalanda at Bihar Sharif in SC/ST P.S. case No. 30/2019 registered u/s 302, 120(B) of the IPC and u/s 3(i) (r) (s), 3(2), (v) (a) (va) of SC/ST Act by which prayer for bail of the petitioner was rejected and for grant of bail.

The informant is son of the deceased. The informant alleged that his father Ganesh Ravidas was at his house on 10.07.2019. At 4 P.M. Kamlesh Kumar, the petitioner, S.H.O. of Nagarnausa P.S., along with Jamadar, Balindra Rai, Chokidar, Jitendra Kumar and Sanjay Paswan came and took away the father of the informant to P.S. When the informant and others came to the P.S. the above named accused persons started abusing them by calling their caste name. The accused persons did not allow the informant and others to meet his father. It is further alleged that on 11.07.2019 at 8.25 P.M. one Chowkidar



came and informed that his father died. The informant and others rushed to the P.S. and got information that dead body of his father was sent for post mortem. The informant went to the hospital and saw dead body of his father. There were many injuries on different parts of body of his father. The informant claimed that his father was killed inside the police station by the police officials at the instance of Naresh Sao as Dharmendra Kumar is alleged to have kidnapped daughter of Naresh Sao and on such allegation father of the informant was brought to P.S.

The learned counsel for the petitioner submits that petitioner is, of course, S.H.O. of Nagarnausa P.S. and petitioner along with Balindra Rai and Chowkidar arrested the accused Ganesh Ravidas and brought him to the P.S. but the petitioner handed over the accused to Tej Narayan Roy, Investigating Officer of the case, and Tej Narayan Roy kept the accused inside the Hajat. The petitioner went outside the P.S. premises with regard to investigation of other case. It is further submitted that nobody has seen the petitioner assaulting Ganesh Ravidas, the deceased. Tej Narayan Roy, I.O. of the case, has already been granted anticipatory bail by a coordinate bench of this court vide order passed on 17.09.2019 in Cr. Appeal (SJ) No. 3950/2019. The petitioner is in jail since 12.07.2019 and, thus, he deserves bail but the learned counsel for the informant and the learned Spl. P. P. vehemently opposed the prayer for bail and submitted that on the facts of the case it appears that it was the petitioner, being the S.H.O. of Nagarnausa P.S., Balindra Rai, Jamadar, and Chowkidar arrested the deceased and brought him to P.S. There is nothing on record to show that petitioner handed over the deceased to the I.O. of the case. From perusal of the case diary, it would appear that Officer-on-duty disclosed that even Amad



of the accused has not been mentioned in the station diary at the instance of the petitioner. The deceased got many abrasion injuries on different parts of his body. The place of occurrence was examined by the Scientists of Forensic Science Laboratory and they came to the conclusion that deceased did not commit suicide in the Hajat. The Deputy Superintendent of Hospital also opined that there was no blood clot beneath the ligature mark around the neck and this fact shows that ligature mark around the neck was post mortem. This fact itself shows that Ganesh Ravidas was assaulted and death was caused due to suffocation as a result of which the doctor opined the death on account of asphyxia. Therefore, the S.H.O., who is in-charge of the entire P.S. is solely responsible for the custodial death of the deceased. Regular bail of Balindra Rai, Jamadar, who was accompanying the petitioner at the time of arrest of the deceased from his house, has already been rejected by this court and the petitioner does not deserve bail.

Having considered the submissions and on perusal of records, I find that there is specific allegation that it was the petitioner who went to arrest the deceased to his house along with Jamadar, Balidra Rai and Chowkidar and after arrest Ganesh Ravidas was brought to the P.S. The Constable or O.S.D. did not produce any entry in the register with regard to handing over the deceased to the I.O. of the case and on that ground the I.O., Tej Narayan Roy was granted anticipatory bail. Tej Narayan Roy was not named in the FIR and it transpired that it was the petitioner and others who kept the deceased in the Hajat. From the post mortem report, it appears that deceased bore several anti mortem injuries all over his body and ligature around neck was post mortem and this fact also indicates that



the deceased was killed and thereafter he was hanged in order to create picture of suicide by the detenu inside the Hajat.

Considering the entire facts and the fact that petitioner was the SHO and detenu was killed inside Hajat, I am not inclined to enlarge the petitioner on bail. Accordingly, the same is rejected.

The trial court is directed to hold the trial on day to day basis and conclude the same within nine months from the receipt of this order.

The Superintendent of Police, Nalanda at Bihar Sharif is directed to ensure the attendance of prosecution witnesses in the trial court so that the trial must be concluded within nine months.

Let a copy of this order be sent to the trial court and the Superintendent of Police, Nalanda at Bihar Sharif for information and needful.

If the trial is not concluded within nine months, without any fault of the petitioner, the petitioner, if so advised, may renew his prayer for bail.

This appeal is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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