

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13414 of 2022

Arising Out of PS. Case No.-37 Year-2021 Thana- KURSAILA District- Katihar

Tholai Mandal @ Dholai Mandal, Son of Late Bhedi Mandal, Resident of
Village- Chaklamaula Nagar, P.S.- Phalka (Pothia O.P.), District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 17-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Kursela P.S. Case No. 37 of 2021, registered for the alleged offences under Section 302 of the Indian Penal Code.

As per the prosecution case, the wife of the informant went out for cutting grass but did not return. Later on, her dead body was found in the land of the petitioner and there were some injury marks on her body. The informant showed her suspicion that a few days prior to her death, his wife stated that



the petitioner abused her when she was cutting grass in his land and for this reason, he might have committed her murder.

The learned counsel for the petitioner submits that except for suspicion of the informant, there is nothing against this petitioner which might connect him with the murder of the wife of the informant. Even the land from where the dead body is said to have been recovered does not belong to this petitioner. He works as a labourer and he is landless person. The learned counsel further submits that there is no eye witness to the whole occurrence and no one has seen the petitioner with the deceased at any moment of time. The informant has not talked about the threat, if any, which was extended by this petitioner to any other person and so this story does not seem to be believable. Furthermore, during investigation, no incriminating material has been recovered which might suggest the complicity of the petitioner. The petitioner has been present in his house from where he was arrested and this fact also suggests the innocence of the petitioner. During trial, two witnesses have been examined and both of them have not supported the prosecution case on the point of the complicity of this petitioner. The trial is at the same stage and there is no likelihood of its conclusion in near future. The petitioner is in custody since 30.05.2021 and he



has got no criminal antecedent.

Learned APP opposes the prayer for bail submitting that the petitioner has been named in the FIR and there is allegation that he threatened the deceased and later on her body was found on the land of this petitioner. However, learned APP concedes that the witnesses examined till date have not supported the prosecution case against this petitioner.

Having regard to the facts and circumstances of the case and the submissions made hereinabove and further considering the distinct lack of material against the petitioner showing his complicity in the alleged occurrence and further considering the deposition of witnesses recorded before the trial court and also considering the period of the custody of the petitioner, he is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III, Katihar, in connection with Sessions Trial No. 221 of 2021, arising out of Kursela P.S. Case No. 37 of 2021, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative



of the petitioner.

(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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