

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25581 of 2021**

Arising Out of PS. Case No.-11 Year-2020 Thana- MEDNI CHAUKI District- Lakhisarai

SURENDRA MAHTO @ SURENDRA KUMAR Son of Bishundeo Mahto
Resident of Village - Khawa Chandra Tola, P.S.- Medni Chouki, Dist.-
Lakhisarai.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Advocate

For the Opposite Party/s : Mr.Choubey Jawahar, A.P.P

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER**

7 16-02-2022 Heard the parties through video conferencing.

Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. appearing for the State.

Let the defect(s) be removed within two weeks of
the complete start of the physical Court in normal course.

The petitioner, who is in custody since 19.09.2020
seeks regular bail in connection with Medni Chauki P.S. Case
No. 11 of 2020, for the offence punishable under Sections 302
and 201/34 of Indian Penal Code, pending in the Court of Addl.
Chief Judicial Magistrate-1st, Lakhisarai.

The prosecution case, in brief, is that informant
Lalita Devi, wife of the deceased Dharmendra Kumar was a
musician and used to attend the function at various places. It is
alleged that one Bablu Kumar forced the deceased Dharmendra
Kumar to accompany him and perform on the occasion of



Saraswati Puja to which he refused due to lack of time. After some time, Bablu Kumar along with other accused persons named in the F.I.R. forcibly took the husband of informant and the informant also followed them, however, the accused persons left her husband near the school. Upon search, the dead body of the husband of informant was found near the Bathan of Sethu Mahto.

Learned counsel appearing on behalf of the petitioner submits that petitioner is innocent and he has falsely been implicated in this mere on suspicion in the alleged murder of husband of informant. He further submits that petitioner is not involved in the murder of the deceased, which is a serious offence neither the circumstances are so peculiar to make him accused in the present case and there is no likelihood of the petitioner to flee away from the justice nor the impact of his release may make on prosecution witnesses its impact on the society there is no likelihood of his tampering the evidence. One case under Section 30(a) of the Bihar Prohibition and Excise Act has been registered against the petitioner on the basis of the seizure-list prepared in the present case as one empty bottle of liquor was found near the house of the petitioner, which is near the place of occurrence. The petitioner



has no concerned with accused Bablu Kumar nor he has committed any offence nor the said empty bottle of liquor has any concerned with the petitioner. Even from perusing the entire case diary as well as on the statement of several independent witnesses under Section 161 Cr.P.C. no case is made out against the petitioner, rather, the involvement of the petitioner is based on mere surmises and conjectures. He further submits that no incriminating articles has also been recovered from the possession of the petitioner. He further submits that there is no eye-witness to the alleged murder of husband of informant, rather, there is direct allegation against co-accused Bablu Kumar and Sethu Mahto, who is the father of said Bablu Kumar and the dead body of the deceased was also recovered from the Bathan of the said Sethu Mahto.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner. He further submits that petitioner is one of the associates of Sethu Mahto and there is direct allegation against him to have accompanied Sethu Mahto and dragged the deceased from his house once he had refused to give his musical performance on the occasion of the Saraswati Puja and upon his refusal and previous enmity to the accused persons named in the F.I.R. has resorted to murder the



deceased. However, there is no eye-witness to the alleged murder of the husband of the informant, but the suspicion against the present petitioner led by the circumstantial evidence and from paragraph No. 3, it appears that the empty bottle of liquor and other incriminating materials were recovered from the Bathan nearby the place of occurrence and as such the complicity of the petitioner and his active role in committing murder of the husband of the informant cannot be ruled out, hence, the petitioner is not entitled to be released on bail.

Considering the above mentioned facts and circumstances of the case, the allegation made in the F.I.R. and from perusal of the case diary, the involvement of the petitioner in the alleged murder of husband of informant cannot be ruled out, which is corroborated from paragraph No. 6 as well as statement of the cousin brother of the deceased Lochan Mahto, even if, there is no eye-witness to the said occurrence. The circumstantial evidences are such which cannot absolve the involvement of the petitioner from allegation of committing the alleged murder of the husband of informant, which is a serious in nature. Accordingly, I am not inclined to release the petitioner on bail. The prayer for grant of bail to the petitioner is rejected.



The trial Court is, however, directed to expedite the trial and conclude it, preferably, within a period of 12 months, if no substantial progress takes place in the trial, the petitioner, if so advised, may renew his prayer for grant of bail after the aforesaid period of 12 months.

(Purnendu Singh, J)

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