

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28268 of 2021**

Arising Out of PS. Case No.-36 Year-2018 Thana- UPHARA District- Aurangabad

SANJAY YADAV Son of Late Lagan Yadav Resident of Village - Dahru
Bigha, P.S. - Uphara, District - Aurangabad (Bihar).

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Leelawati Kumari, Advocate.

For the Opposite Party/s : Mr. Bisheshwar Ram, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 03-02-2022 Heard the parties through video conferencing.

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

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

The petitioner, who is in custody since 19.12.2020,
seeks regular bail in connection with Uphara P.S. Case No. 36 of
2018 for the offence punishable under Sections 302/201/34 of
the Indian Penal Code.

The allegation is of murder of the husband of the
informant by the accused persons.

Learned counsel appearing on behalf of the petitioner
submits that the petitioner is innocent and he has falsely been



implicated in this case. He further submits that the alleged incidence of committing murder of the husband of the informant took place on 25.08.2018 and after delay of 17 days, the F.I.R. was lodged on 12.09.2018. The F.I.R. has been registered against four named accused persons against whom final form has been submitted, however the petitioner is not named in the F.I.R. against whom charge sheet has been submitted. She further submits that on the basis of the statement made in Paragraph Nos. 3, 6, 7, 17, 18, 19 and 20 of the case diary who are relatives of the accused persons, there is no specific allegation that anyone of them has seen that the petitioner has committed murder of the husband of the informant. She further submits that till date the dead body of the deceased has not been recovered and as such the very allegation of committing murder by this petitioner in absence of any eye witness is not made out. She further submits that on mere suspicion the petitioner has been roped in the present case because there was dispute regarding purchase of land. The petitioner who is the *Samdhi* of the brother of the deceased Dhanraj Yadav and since no negotiation could be made, the petitioner has been falsely implicated in the present case. The petitioner has clean antecedent and he is in custody since 19.12.2020.



Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner and submits that though the F.I.R. named accused persons against whom the allegation of murder has been found untrue, however the material which has surfaced in course of investigation are sufficient to prove the fact that there is every possibility that the present petitioner might have committed murder of the husband of the informant and thereafter he concealed the dead body somewhere else. He however submits that till date the dead body of the deceased has not been recovered to confirm the alleged death.

Considering the aforementioned facts and circumstances of the case, the alleged death of the husband of the informant has not been confirmed in absence of recovery of the dead body, there is allegation of previous enmity with regard to purchase of some plot of land from Ravindra Pandey and the name of the petitioner has surfaced in this case because he was negotiating for the deceased (husband of the informant), almost all the witnesses who have given their statement in course of investigation are interested witnesses and the family members and relatives of the accused persons named in the F.I.R., name of the petitioner has surfaced in course of investigation on the basis of confessional statement, prima facie this Court is of the



opinion that the allegation of murder against the petitioner is not made as there is only minuscule evidences against the petitioner in absence of any eye witness, the petitioner has clean antecedent as well as there is no allegation of tampering with the witnesses or influencing the witnesses and charge sheet has also been submitted against the petitioner. The petitioner prima facie in my opinion has made out a case for grant of regular bail. The petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Aurangabad in connection with Uphara P.S. Case No. 36 of 2018, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature



of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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