

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29772 of 2021

Arising Out of PS. Case No.-174 Year-2020 Thana- AMARPUR District- Banka

PARMANAND THAKUR S/O LATE BHAGWAT THAKUR R/o village-
Mahauta, P.S.- Amarpur, District- Banka

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vindhya Keshri Kumar, Sr. Advocate.

Mr. Pramod Mishra, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 28-02-2022 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 seeks regular bail in connection with
Amarpur P.S. Case No. 174 of 2020 for the offence punishable
under Sections 120B and 302/34 of the Indian Penal Code.

The prosecution case, in brief, is that Kishori
Chaudhry, the brother of the informant had gone to give milk at
the dairy of one Pappu Sharma at 08:30 PM on 06.04.2020, but
he did not return. Thereafter in the next morning the informant
along with others made search of his brother and in course of
search he was informed by one Amit that the dead body of his



brother Kishori Chaudhary is lying in the orchard of Kampali Sharma. The name of the petitioner has surfaced in this case on the basis of confessional statement of co-accused Balram which is evident from Para-23 of the case diary.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has falsely been implicated in this case on mere suspicion. He further submits there is no eye witness of the occurrence. Several cases are pending between the parties. Petitioner is 75 years old and is a practicing advocate. No incriminating material has surfaced in course of investigation. Petitioner is in custody since 22.02.2021.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner.

Considering the aforementioned facts and circumstances of the case, having perused the F.I.R. as well as the case diary, it appears that the allegation against the petitioner is that he had conspired in committing murder of the deceased who is brother of the informant, there is no eye witness of the said murder rather dead body of the deceased was recovered from the orchard of one Kampali Sharma, name of the petitioner surfaced on the basis of confessional statement of co-accused



Balaram Sharma who has made allegation against the petitioner that the petitioner was also one of the conspirator in the present case, law is well settled that confession before the police has no evidentiary value in the eye of law as per Section 25 of the Evidence Act. Even suspicion which has been raised against the petitioner is also not sustainable. In this regard, also the law is well settled that suspicion howsoever strong cannot take the place of proof and for suspicion an under trial prisoner cannot be kept behind the bar even after completion of investigation, the petitioner prima facie has made out a case to be released on bail.

Court below is directed to release the petitioner, above named, 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, Banka in connection with Amarpur P.S. Case No. 174 of 2020, 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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