

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32772 of 2021

Arising Out of PS. Case No.-490 Year-2020 Thana- CHAPRA TOWN District- Saran

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MOHAN RAI S/O LATE BABBAN RAI R/O VILLAGE-BARA TELPA,
P.S-CHAPRA TOWN, DISTRICT-SARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Singh, Adv.

For the Opposite Party/s : Mr.APP

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

6 09-05-2022 The applicant/accused in Crime No. 490 of 2020 registered with Chapra Town Police Station for the offences punishable under Sections 363, 364, 120(B) of the Indian Penal Code, by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused as well as learned Additional Public Prosecutor appearing for the State.

The learned counsel for the applicant argued that except confessional statement of co-accused Rahul Kumar Rai, there is no evidence against the applicant and the confessional statement is inadmissible as it has not yielded in any recovery or discovery of fact.

The learned Additional Public Prosecutor opposed



the application by contending that the offence is serious.

I have considered the submissions so advanced.
Perused the case diary.

On 06.09.2020, the subject FIR is lodged by Dudhnath Singh who happens to be father of victim Sujit Kumar. He alleged that in the evening hours of 03.09.2020 accused Vinod Rai and Sonu Rai came to his house and took away his son Sujit Kumar on the pretext of giving party to him. However, on 05.09.2020 co-accused Rahul Rai has informed him that his son is killed. That is how, first informant Dudhnath Singh has lodged the FIR.

During course of investigation, confessional statement of Rahul Rai is recorded. Though that confession before the police cannot be looked into, according to the prosecution case, the accused persons attempted to take away victim Sujit Kumar and one Munna Singh. They had beaten Sujit Kumar and Munna Singh. Munna Singh escaped whereas Sujit Kumar was taken away by the accused persons. This is in fact the confession of co-accused Rahul Kumar Rai. Except this, I am unable to read any evidence against the applicant in the case diary. Co-accused Rahul Rai is already directed to be released on bail by the Co-ordinate Bench of this Court vide



order dated 23.02.2022 in Cr. Misc. No. 56226 of 2021.

Considering the nature of the evidence against the applicant as well as the fact that the case diary is not having any material to show that Munna Singh was interrogated by the police at any point of time, I see no reason to authorize further pre-trial detention of the applicant and hence, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 490 of 2020 registered with Chapra Town Police Station for the offences punishable under Sections 363, 364, 120(B) of the Indian Penal Code, be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact



the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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