

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.23845 of 2022

Arising Out of PS. Case No.-39 Year-2020 Thana- MANIHARI District- Katihar

Md. Imam @ Imam, S/O Late Lajimudin, Resident of Village- Mahiyarpur,
P.S.- Manihari, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Advocate
For the Opposite Party/s : Mr. Binod Kumar, APP
For the Informant : Mr. Ratnakar Ambstha, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 15-09-2022 Today, this application is being listed, out of turn, on the urgent motion slip filed by the learned counsel for the petitioner stating therein that the wife of the petitioner is suffering from ailment.

Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Bhola Prasad, learned counsel appearing on behalf of the petitioner, Mr. Ratnakar Ambstha, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Manihari P.S. Case No. 39 of 2020 registered



for the offences punishable under Sections 365/34 of the Indian Penal Code. Later on, Sections 364, 302, 201, 120 (B)/34 of the Indian Penal Code was added.

As per prosecution case, it is alleged that on 06.02.2020 at about 03:00 PM all the F.I.R. named accused and four unknown persons, including the petitioner, came to his house and taken away his son namely, Md. Murad, to Fulhara for excavating the soil. It is further alleged that son of the informant had gone along with the accused persons on his Apache motorcycle and when his son did not return home till night, then he called his son, but could not talk to him. When the informant went to the house of the co-accused, he found all the persons fled away after locking the house.

Learned counsel for the petitioner submits that the allegation has been leveled against six named accused persons and four unknown persons that they came to the house of the informant and taken away his son on the pretext of excavating soil at about 03:00 pm, however, during the course of investigation, it has come that when the informant talked to his son in the night, he told him that he is coming in a while and as such, it appears that by that time the deceased was alive and there was no apprehension of any danger and as such it is not a



case of even last seen. He next submits that it would also be evident from the investigation that the deceased was named in nine other criminal cases and he was known for his notoriety and he might have been killed by some other person, but only because of the fact that the petitioner and others had come to his house, the name of the petitioner has been implicated. He next submits that the petitioner, having fair antecedent, is in custody since 19.01.2022 and save and except the allegation that he had come along with other persons to the house of the informant, there is no material suggesting the complicity of the petitioner in the present crime. While concluding his submission, he also drawn the attention of this Court towards the post-mortem report, which suggests that the deceased had received only one firearm injury.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that there is specific allegation against the petitioner and other co-accused persons that they had come to the house of the informant and took away his son and thereafter his dead body has been found. He next submits that during the course of investigation materials have come which shows the complicity of the petitioner.

Learned APP for the State also opposes the bail



application.

Regard being had to the submissions made on behalf of the parties and considering the materials available on record, as also the fact that there is no close proximity of taking away the son of the informant and the recovery of the dead body, inasmuch, as the petitioner, having fair antecedent, is in custody since 19.01.2022, apart from the fact that the investigation of the crime is already concluded, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Manihari P.S. Case No. 39 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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