

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24617 of 2022

Arising Out of PS. Case No.-126 Year-2019 Thana- RAGHOPUR District- Vaishali

Jaikant Rai, Son of Sajivan Rai Resident of Village- Sukimarpur, P.S.-
Raghupur, District- Vaishali, At Present Baglodan Gali, P.S.- Chock, District-
Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sarvan Kumar Sr. Advocate Mr. Rudal Singh, Advocate
For the Opposite Party/s	:	Mr. Ajit Kumar, A.P.P.
For the Informant	:	Mr. Mahendra Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 21-09-2022 Heard Mr. Sarvan Kumar, learned senior counsel assisted by Mr. Rudal Singh, learned counsel appearing on behalf of the petitioner, Mr. Mahendra Thakur, learned counsel appearing on behalf of the informant and Mr. Ajit Kumar learned A.P.P. 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 seeks regular bail in connection with Raghopur P.S. Case No. 126 of 2019, for the offence punishable under Sections 147, 148, 149, 341, 342, 323, 326, 354, 307, 302, 201, 120(B), 504 of the Indian Penal Code and Section 27 of the Arms Act.

Prosecution story, in brief, is that three persons



namely Najir Rai, Chanarik Rai and Putul Rai were killed by slitting them in pieces and their body were thrown in the river.

Learned senior counsel submits that the petitioner has falsely been implicated in the present case. There is no eye-witness to the alleged commission of murder. Altogether twenty one persons including the present petitioner have been named in the F.I.R. General and omnibus allegation has been made against all the named accused persons in the F.I.R. of assaulting the deceased. It is further submitted that specific allegation against the petitioner is that he along with co-accused Sanjivan Rai, Jaikant Rai, Umakant Rai, Ranvijay Rai had assaulted the deceased Nazir Rai and the same is corroborated with the injury report and the doctor has opined five bullet shot injuries causing his death. It is his specific submission that from the F.I.R., it is not clear as to whose assault had actually taken the life of the victim. In course of investigation, the testimony of the witnesses is also not specific that the petitioner had taken the life of the deceased Nazir Rai. Nothing specific has come against the petitioner that his is the one who had committed murder of Nazir Rai. So far as, the other deceased persons Chanarik Rai and Putul Rai are concerned, the allegation of assault on the deceased is against the co-accused namely, Rama Rai @



Ramakant Rai, Santosh Rai @ Golu, Sanjay Rai, Ajay Rai, Satish Rai, Harendra Rai, Sanjeev Rai, Umakant Rai @ Kallu Rai Chandan Rai, Jitendra Rai, Nasib Rai @ Vikash Rai, Bipin Rai, Dharmendra Rai, Sunil Rai, Avishek @ Dhela Rai. It is further submitted that the petitioner has been dragged in the present case due to previous enmity. Learned senior counsel has referred statement in paragraph no. 3 of the bail application that twenty-eight cases are pending against the petitioner, out of which, in two cases the petitioner has been acquitted and almost in all the cases he has been released on bail except Chowk P.S. Case No. 136 of 2020. He further submits that the criminal antecedent will not come in any way so far as, the accusation made in the present case against the petitioner and in this regard, he has placed reliance on (2012) SCC 382 (Maulana Mohammed Amir Rashadi vs State of Uttar Pradesh and Anr.) wherein the Apex Court has observed 'in other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court, etc.,'. Based on the observation made by the Apex Court, he further submitted that taking into account the allegation made in the F.I.R. against the petitioner as well as the material and the



testimony of the witnesses collected in course of investigation. There is general and omnibus allegation against the petitioner and co-accused Sanjivan Rai, Jaikant Rai, Umakant Rai and Ranvijay Rai had assaulted the deceased Nazir Rai. Petitioner is in custody since 06.10.2021. Charge-sheet has already been submitted in the present case.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner. He submitted that material evidences have come in the case diary that the petitioner along with all the accused persons had committed murder of three persons. The eye-witnesses have seen them to have assaulted the deceased persons. Allegation against the petitioner is serious in nature. He further submitted that the petitioner is involved in many other cases which are serious in nature.

Considering the rival submissions made on behalf of the parties and on having perused the allegation made in the F.I.R., the allegation is of murder of three persons by 21 named accused. Allegation against the petitioner is that he along with co-accused Sanjivan Rai, Umakant Rai and Ranvijay Rai had assaulted the deceased Nazir Rai, who had sustained five bullet injuries leading to his death. No specific allegation of assault has been made against the petitioner that his assault has taken



the life of the deceased Nazir Rai. There is general and omnibus allegation against the petitioner that he had also assaulted the deceased Nazir Rai. The informant is the eye-witness and on mere suspicion, the present petitioner along with 21 accused are named in the F.I.R. The material collected and testimonies of the witnesses raise doubt that the petitioner had taken the life of the deceased. 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. Similarly situated co-accused carrying identical allegations as that of the petitioner namely, Indradeo Rai, Rama Rai, Sunil Rai and several other accused persons have been granted bail by different co-ordinate Benches of this Court. Petitioner is languishing in custody since 06.10.2021 and there is no likelihood of the trial being concluded in near future. Prima facie I am of the opinion that the petitioner has made out a case to be released on bail.

The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 and if no other criminal case is pending against the petitioner, the petitioner, above named, is directed to be enlarged on bail upon furnishing bail bond of Rs. 5,00,000/- (Rs. Five lakhs) with two



sureties of the like amount each to the satisfaction of the learned Additional District Judge-IX, Vaishali, Hajipur in connection with Raghopur P.S. Case No.126 of 2019 and the petitioner is also directed to furnish bank guarantee of Rs. 5,00,000/- (Five lakhs) and directed to make his attendance everyday at 9 a.m. before S.H.O., Raghopur till conclusion of the trial and the S.H.O., Raghopur is directed to submit his monthly attendance report to the Superintendent of Police, Vaishali. On any single default, without any valid reasons on the part of the petitioner, his bail bonds shall be cancelled and the bank guarantee of rupees five lakhs shall be forfeited and the same shall be deposited in District Legal Aid Committee. Other conditions are as follows:-

(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)

Niraj/aditya

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