

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37207 of 2021

Arising Out of PS. Case No.-243 Year-2020 Thana- BAHERA District- Darbhanga

Amol Mahto @ Amol Kumar Mahto, Son of Gangai Mahto, Resident of
Village- Baghant, P.S.- Manigachhi, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Krishna Chandra, Advocate
For the Opposite Party/s :	Mr. Suresh Prasad Singh, APP
	Mr. Kritya Nand Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

3 16-02-2022 The applicant is an accused in Crime No. 243 of 2020 registered with Bahera Police Station for the offences punishable under Sections 341, 302 and 201 r/w 34 of the Indian Penal Code, by this application is seeking his release on bail after filing of the charge sheet. However, as seen from annexure 3 to the bail application, the charge sheet against the applicant is filed for the offence punishable under Section 306 r/w 34 of the Indian Penal Code.

Heard the learned counsel appearing for the applicant/accused.

The learned counsel for the first informant as well as learned Additional Public Prosecutor argued that the applicant along with others have committed the murder of the



deceased Ramgulam Yadav. It is further argued by both of them that report of the Forensic Science Laboratory is awaited. The learned counsel for the first informant argued that the Superior Police Officer, as seen from the relevant paragraph of the case diary has opined that the deceased was done to death by the applicant and others co-accused.

I have considered the submissions so advanced and also perused the material placed before me.

Though the substantive offence was registered for the offence punishable under Section 302, 201 r/w 34 of the Indian Penal Code, ultimately on completion of investigation, the prosecution has filed the charge sheet for the offence punishable under Section 306 r/w 34 of the Indian Penal Code and as such it does not lie in the mouth of the learned Additional Public Prosecutor appearing for the State as well as learned counsel appearing for the first informant that applicant and others have committed the murder of Ramgulam Yadav. No value can be attached to the opinion of the Police Officer, as sought to be relied by the learned counsel for the first informant. It is the job of the Court to give its opinion in the form of Judgment after trial. Only opinion of experts can be considered as per the provisions of Evidence Act by the Court



of law. Opinion of the Police Officer is totally irrelevant.

Be that as it may, as the offence alleged against the applicant is said to be one punishable under Section 306 of the Indian Penal Code, prima facie it will have to be demonstrated by the prosecution at this stage that the accused persons or any of them have instigated, incited or provoked deceased Ramgulam Yadav to commit suicide. Unfortunately, no such evidence is pointed out by either the learned Additional Public Prosecutor or by the learned counsel for the first informant.

Reverting to the facts of the instant case it is averred by the first informant Brhamdeo Kumar Yadav that wife of Binod Kumar had spread a rumour that Ramgulam Yadav had accosted daughter of the present applicant on the road in his village. Therefore the present applicant along with co-accused started searching Ramgulam Yadav who happened to be the father of first informant Brhamdeo Kumar. He further reported that on 09.07.2020, he was tied at the door of the present applicant and was being beaten. His tractor was also kept in front of the house of the present applicant. So far as Ramgulam Yadav is concerned, his dead body was found in the field at a distance about 20 K.M. from the village. Except a simple injury on his body, nothing else was found on the dead



body, giving rise to the suspicion that the deceased had been murdered. However lips and nails of the dead body were showing discoloration and therefore, the viscera is sent for chemical analysis. It appears that for this reason, the prosecution has ultimately filed the charge sheet for the offence punishable under Section 306 of the Indian Penal Code with an accusation that the accused persons have abetted commission of suicide by Ramgulam Yadav.

Prima facie I am unable to find out any material to demonstrate incitement, provocation or instigation by the applicant to the deceased compelling him to end the life.

Investigation of the subject crime is over. I see no reason to refuse the bail to the applicant and hence, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 243 of 2020 registered with Bahera Police Station 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.

Bhardwaj/-

(A. M. Badar, J)

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