

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37483 of 2021

Arising Out of PS. Case No.-219 Year-2020 Thana- BANMANKHI District- Purnia

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TAMPA @ TAMPA SAHNI Son of Ramdeo Sahni @ Ramdew Sahani
Resident of Village - Banmankhi Chakla, P.S.- Banmankhi, Distt.- Purnea.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bhola Prasad, Adv.

For the Opposite Party/s : Mr.Dr. Kumar Uday Pratap, APP

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

4 18-05-2022 The applicant/accused in Crime No. 219 of 2020 registered with Banmankhi Police Station for the offences punishable under Sections 302, 201, 34 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. He argued that though the incident took place on 30.08.2020, for the first time a witness name Suraj Kumar appeared on the record of investigation on 02.12.2020 and had spoken about complicity of the applicant in the crime in question.

As against this, the learned Additional Public Prosecutor opposed the application by contending that police statement of Suraj Kumar as well as his statement under Section 164 of the Cr.P.C. shows complicity of the applicant in the crime



in question. The learned Additional Public Prosecutor further submits that initially the first charge sheet was filed against the accused Gangwa Sahni and Tampa Sahni and thereafter supplementary charge sheet was filed against Rupesh Sahni.

I have considered the submissions so advance and also perused the case diary.

The FIR of the subject crime was lodged by Ranju Devi mother of Badal Kumar (since deceased). She reported that her son Badal Kumar was working as driver on the Toto vehicle and he had quarreled with Gangwa Sahni, Rupesh Sahni and present applicant Tampa Sahni in the evening hours of 30.08.2020. Thereafter from 07:00 pm of 30.08.2020 her son Badal Kumar went missing. His dead body was found in the afternoon of 31.08.2020 with injuries on neck by sharp edged weapon. This FIR was lodged by Ranju Devi on 31.08.2020.

Thereafter the investigation proceeded and charge sheet against Gangwa Sahni and applicant Tampa Sahni was filed on 01.12.2020 vide no. 179/ 2020. In this charge sheet against the applicant, Suraj Kumar was not cited as a witness. After filing charge sheet against the applicant, on the next day i.e. on 02.12.2020 statement of Suraj Kumar came to be recorded. This Suraj Kumar is none else but brother of Rupesh



Sahni named in the FIR by Ranju Devi. This first charge sheet is not mentioning the name of Rupesh Sahni as an accused.

Suraj Kumar who happens to be brother of co-accused Rupesh Sahni against whom charge sheet was filed subsequently on 05.09.2021 has stated that he saw the applicant Tampa Sahni and co-accused Gangwa Sahni killing Badal Kumar. This witness has conveniently not mentioned anything about his own brother Rupesh Sahni who is charge sheeted subsequently.

Thus on the date of filing of the charge sheet against the present applicant Tampa Sahni, statement of Suraj Kumar was not recorded. His statement is highly doubtful as it was surfaced on record of investigation after filing of the charge sheet and particularly on 02.12.2020. Suraj Kumar has not even named his brother Rupesh Sahni as perpetrator of the subject crime.

Except this, no other evidence is pointed out by the prosecution against the applicant.

In the wake of this quality of evidence against the applicant, his further pre-trial detention is not warranted and therefore the order:-

i. The application is allowed.

ii. The applicant/accused in Crime No. 219 of 2020 registered with Banmankhi Police Station for the offences



punishable under Sections 302, 201, 34 of the Indian Penal Code, be released on bail on executing P.R. bond of Rs.15,000/- (Rupees Fifteen 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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