

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37944 of 2021

Arising Out of PS. Case No.-454 Year-2020 Thana- GHORASAHAN District- East
Champaran

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UPENDRA RAI S/O- Late Kanhaiya R/O Vill - Bangari, P.S. - Ghorasahan,
District - East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Adv. Mr. Nafisuzzoha, Adv.
For the State	:	Md. Mustaque Alam, APP
For the Informant	:	Mr. Priyajeet Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 22-02-2022 Heard learned counsel for the parties.

The petitioner has preferred this application for grant of regular bail in a case registered under sections 302, 120B and 34 of the Indian Penal Code and section 27 of the Arms Act.

As per the prosecution case, the uncle of the informant was shot at by unknown accused persons. On being taken to the hospital, he was declared dead.

It is submitted by learned senior counsel appearing for the petitioner that the F.I.R. was registered against unknown. The name of the petitioner transpired in course of investigation only on the basis of suspicion as allegedly the daughter of the deceased was in love affair with the petitioner and even after her marriage, she had abandoned her husband and started living



with the petitioner. It is further submitted that the other material being relied on is the alleged threat given by this petitioner to the deceased to which he is said to have confessed in his confessional statement made before police which is inadmissible. The third material being relied on against the petitioner is of having been in regular touch on telephone with the daughter of the deceased. The investigation in the case has concluded. The petitioner is in custody since 24.3.2021 and has no criminal antecedent. It is lastly submitted that there is no eye witness to the actual occurrence.

The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. Learned counsel for the informant has taken the Court in detail through the material that has transpired in course of investigation including in paragraph nos.13, 14, 15 and 59 of the case diary to submit that the threats given by the petitioner and his communication with the daughter of the deceased even after her marriage has been well proved and the petitioner's presence nearabout the place of occurrence is further confirmed from the call detail report (CDR) of his mobile phone. Subsequently, even the daughter of the deceased has been made accused and warrant has been issued against her. It is further submitted that



once the petitioner is enlarged on bail, he will not cooperate in the trial and not permit the same to proceed.

Having heard learned counsel for the parties and taking into consideration the allegations in the F.I.R., the material that has transpired in course of investigation including the petitioner having remained in custody for about 11 months and chargesheet having been submitted in the case, the Court directs the petitioner to be enlarged on bail in connection with Ghorasahan P.S. Case no.454 of 2020 on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate 3, Sikrahana at Dhaka, East Champaran.

It is directed that the petitioner shall remain physically present in the trial court on each date of the case/trial and shall cooperate in the trial. If the petitioner does not cooperate in the trial or remains absent on any date for reasons not to the satisfaction of the learned trial court, the learned trial court may cancel the bail bond of the petitioner and take him into custody till conclusion of the trial.

(Partha Sarthy, J)

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