

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38497 of 2021

Arising Out of PS. Case No.-2 Year-2020 Thana- RANIYATALAB District- Patna

Amit Kumar Pandey @ Avinash Pandey S/O- Ramji Pandey @ Ramaji Pandey R/O Sabalpur, P.S.- Doriganj, District- Saran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Patanjali Rishi, Advocate

For the Opposite Party/s : Ms. Asha Devi, APP

For the Informant : Mr. Abhay Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 22-02-2022 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard Mr. Patanjali Rishi, learned counsel for the petitioner, Mr. Abhay Kumar Singh, learned counsel for the informant and Ms. Asha Devi, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Ranitalab P.S. Case No. 2 of 2020 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act. He has no criminal antecedent. He is a member of the Armed Forces and is in custody since 24.03.2021.

As per the prosecution story, the son of the informant had gone to the house of his *mausa* on 02.01.2020 in village



Sabalpur (Suratpur), P.S-Doriganj, District-Chapra (Saran). On 03.01.2020, the brother-in-law (*mausa* of the deceased) of the informant informed that his son (since deceased) had left house by foot at 03:00 P.M. and wanted to know whether he had reached there or not. On 04.01.2020, at about 10:00 A.M., the informant came to know from the villagers that his son has been killed at the Northern side of village Katari and he has been shot dead. On information, when the family members went there then they found that the son of the informant had been killed by unknown criminals and it seems that the occurrence had taken place during the night hours. One empty cartridge was lying there and the mobile phone and a bag of the deceased were missing.

Learned counsel submits that the FIR has been lodged on 04.01.2020 at 01:30 P.M. but from the endorsement made at the top of the FIR, it would appear that it has been seen by the learned C.J.M. on 09.01.2020 i.e. after about 5 days.

Learned counsel further submits that in his reinstatement before the police again the informant reiterated his stand that unknown criminals had killed his son but one day after the lodgment of the FIR i.e. on 05.01.2020, the mother of the deceased made a statement that her deceased son had made some complaint against the petitioner that he had obtained job in



the Army fraudulently though the said complaint was hushed up but the petitioner had been looking to eliminate the son of the informant for this reason. She said that she had suspicion against this petitioner.

Learned counsel further submits that later on another witness was examined on 05.01.2020 itself who claimed that he had come to know about the involvement of the petitioner but how he could come to know about the involvement of the petitioner was not disclosed. The witness further claimed that he had seen the deceased in the company of co-accused Vishal Kumar and Bajrangi Pandey on the motorcycle of one Tunnu Singh. Vishal Kumar @ Bajrangi Pandey and Tunnu Singh are all related to the deceased as they happened to be first cousins. It is submitted that Suraj Pandey @ Bajrangi Pandey was arrested by Police who was made to make a confessional statement but in absence of any corroborative materials the said co-accused Suraj Pandey @ Bajrangi Pandey has been granted bail by a learned Co-ordinate Bench of this Court vide order dated 22.02.2021 passed in Cr. Misc. No. 38437 of 2021. It is, thus, submitted that the case of the petitioner is based on mere suspicion and he stands on a better footing from that of Bajrangi Pandey. The petitioner is working with Armed Forces and there



would be no difficulty in securing his presence in course of trial.

Mr. Abhay Kumar Singh, learned counsel for the informant has opposed the prayer for bail of the petitioner. The crux of the submission of Mr. Singh is that because the deceased had made a complaint against the petitioner in Danapur Cantt, the petitioner was inimical to him and he had planned the conspiracy with the help of Suraj Pandey @ Bajrangi Pandey. It is, however, submitted that in course of investigation, police has not been able to find out any material on this point that the deceased had made a complaint against the petitioner.

Mr. Singh has further submitted that the CDR analysis of the mobile phone of the petitioner and the co-accused would show that they were talking to each other on the alleged date of occurrence and a day prior to that. It is submitted that no doubt the petitioner and the co-accused as well as the deceased were closely related to each other and there may be reason to talk among them but because on the two dates, the petitioner was talking to the co-accused Suraj Pandey supports the suspicion against him raised by the wife of the informant.

Ms. Asha Devi, learned APP for the State has also opposed the prayer for bail of the petitioner.

Having heard learned counsel for the petitioner,



learned counsel for the informant and learned APP for the State and on careful perusal of the materials placed before this Court, this Court has noticed that the name of the petitioner has transpired in the statement of the mother of the deceased one day after lodging of the FIR. Father of the deceased is the informant. He has not made allegation against the petitioner even in his reinstatement made after lodgment of the FIR. The mother of the deceased has clearly stated that she has suspicion against the petitioner and that suspicion is based on the allegation that the deceased had made a complaint against the petitioner which was hushed up but on this point in course of investigation no material has come, further no witness has come forward to say that this petitioner was present with the deceased at any moment on the date of alleged occurrence, the co-accused who was named by one of the witnesses as the person with whom the deceased was seen has been granted bail by a learned Co-ordinate Bench of this Court, the CDR analysis shows that the petitioner had some talk with the co-accused but at the same time, the fact is that all the co-accused, the petitioner and the deceased were closely related to each other and therefore, that one factor alone may not impress this Court so as to take a view towards refusal of prayer for bail of the petitioner, the petitioner



is posted in Armed Forces and his presence may be secured in course of trial, therefore, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of Shri P.K. Malviya, learned Judicial Magistrate, 1st Class, Danapur, Patna in connection with Ranitalab P.S. Case No. 2 of 2020, subject to the condition as laid down under Section 437(3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

