

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42750 of 2021

Arising Out of PS. Case No.-621 Year-2020 Thana- PHULWARISHARIF District- Patna

MD. MAHTAB S/O MD. SALIM R/o village- Khalilpura, P.S.- Phulwari
Sarif, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binay Kumar Singh

For the Opposite Party/s : Mr.Sanjay Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 04-01-2022 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner seeks bail in connection with Phulwarisarif P.S. Case no. 621 of 2020 registered for the offence punishable under sections 302 and 120B/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that petitioner is in custody since 5.12.2020, is person with clean antecedent and charge sheet has been submitted. Learned counsel further submits that allegation as alleged in the FIR by the informant is that he alleges about killing of his brother by



unknown criminal and face and head of the deceased was disfigured badly in order to conceal his identify and was thrown near an under constructed house about which the informant was informed by one ward councilor. Learned counsel for the petitioner submits that FIR was against unknown, the police did not record the statement of ward councilor who had given information to the informant about the occurrence. Learned counsel submits that the informant came to the police station and identified his brother and thereafter from mobile number of the deceased, police started investigation and it is submitted that during investigation last call made by the deceased from his mobile number was on mobile no. 7543001752 as it has been recorded in para 24 of the case diary. Learned counsel submits that said mobile number on which deceased made last call belongs to one Nagma Khatoon. It is submitted that Nagma Khatoon left Katihar about 25 years back and was mother-in-law of the deceased. Learned counsel submits that during course of investigation, it transpired that Nagma Khatoon was having affair of which deceased came to know and was threatening that he will disclose the affair in the village or else, she parts with Rs 2 lakhs, it is submitted that Nagma Khatoon contacted Md. Saheb for eliminating her son-in-law who in turn contacted Md.



Mahtab (petitioner) and Imran Ashraf @ Sumo. Accordingly, learned counsel submits that based on confession of Nagma Khatoon, petitioner Md. Mahtab came to be arrested and he in his confessional statement before the police accepted his guilt. Learned counsel submits that Nagma Khatoon had already left her village 25 years back, she was working in Patna, as she had no concern with the deceased nor she intended to go back to her village as such there was absolutely no occasion for her to get the deceased eliminated on the ground that he came to know about her affair, learned counsel thus, submits that only on the basis of confessional statement both Nagma Khatoon and Md. Mahtab have been made accused in the present case as far as last call made is concerned that was of very short duration made between the deceased and her mother-in-law. Learned counsel further submits that there are no eye-witness to the occurrence and name of the petitioner along with Nagma Khatoon has come based on suspicion.

Learned APP vehemently opposes the prayer for bail.

Considering the facts that petitioner is in jail custody, is person with clean antecedent, charge sheet has been submitted and his name transpired in the confessional statement and there are no eye-witness to the occurrence, the petitioner is directed to



be released on bail on furnishing bail bonds of Rs 20,000/-
(twenty thousand) with two sureties of the like amount each to
the satisfaction of the Sub Judge IX-cum- ACJM, Patna in
Phulwarisarif P.S. Case no. 621 of 2020.

(Satyavrat Verma, J)

s.hassan/-

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