

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42449 of 2021

Arising Out of PS. Case No.-5 Year-2021 Thana- ISUAPUR District- Saran

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RAJESH MAHTO @ RAJESH PRASAD S/O LATE RAM SAGAR
MAHTO @ RAMSAGAR MAHTO R/O VILLAGE-SHYAMPUR
(SHAMPUR), PS-ISUAPUR (ISHUWAPUR), DISTRICT-SARAN
(CHAPRA).

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No 13, Advocate

For the Opposite Party/s : Mr. Anita Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 26-04-2022 Heard learned counsel appearing on behalf of the

petitioner and learned APP for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

Petitioner, who is in custody since 25.01.2021, seeks
regular bail in connection with Isuapur P.S. Case No. 05 of 2021
corresponding to G.R. No. 233 of 2021 registered for offences
punishable under Section 302/34 of the Indian Penal Code.

Allegation is of murder of the mother of the
informant. On 09.01.2021, informant had gone to the place of
occurrence and had found dead body of her mother. She had
also found the police officers have reached there much earlier to
her and inquest report was prepared by them. FIR was lodged



next day before the Isuapur Police Station in which it has been alleged that the mother (deceased) of the informant had received some threatening phone calls on her two mobile nos.7481847586 and 8969599235 and in course of investigation, it has been found from the CDR report that the present petitioner had made calls on the two mobile phone nos.

Learned counsel appearing on behalf of the petitioner submits that no material has been collected in course of in course of investigation. Petitioner is co-villager of the deceased and he had not made any threatening call on the mobile phone of the informant. FIR is against unknown. There is no eye witness to the alleged commission of murder of the mother of the informant. The CDR report which has been collected in course of investigation also does not reveal the fact that petitioner was even remotely connected with the alleged commission of murder of the mother of the informant. Petitioner has clean antecedent. Though the informant was present at the place of occurrence, she refused to record her statement. FIR was lodged after preparation of inquest report which creates doubt on the story of the prosecution. Petitioner is innocent and he is in custody since 25.01.2021 for no fault.

Learned A.P.P., for the State has opposed the prayer



for grant of bail to the petitioner.

Having perused the allegation made in the FIR as well as the case diary it appears that FIR is against unknown which was recorded after much delay in the police station but the inquest report was prepared on the date of alleged occurrence. Incidence took place on 09.01.2021 when the mother of the informant went from the house but did not return. A search was made and dead body was found. Informant refrained from recording her fardbeyan before the police. Surprisingly, the police officer has also not lodged FIR about the alleged incidence. The CDR report of mobile nos. 7481847586 and 8969599235 was collected in course of investigation but there is no evidence to connect the present petitioner with alleged commission of murder of the mother of the informant. Prima facie petitioner has made out a case to be released on bail.

The Court below is directed to release the petitioner above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge - VIII, Saran (Chapra) in connection with Isuapur P.S. Case No. 05 of 2021 corresponding to G.R. No. 233 of 2021 subject to the following conditions:



(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(Purnendu Singh, J)

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