

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43624 of 2021

Arising Out of PS. Case No.-355 Year-2017 Thana- BARH District- Patna

=====

KHANGHURU MAHTO @ KHANGHRU MAHTO @ KUSHESHWAR
MAHTO Son of Late Tirpit Mahto Resident of Village- Kali Asthan Malahi,
Police Station- Barh, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Giridhar Gopal Tiwary, Advocate
For the State : Mr. Ajeet Kumar, APP
For the Opposite Party/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 18-04-2022 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 03.01.2021, seeks

regular bail in connection with Barh P.S. Case No. 355/2017,

registered for offences punishable under Sections 302, 201/34.

Prosecution case, in brief, is that in the *fardbeyan* of

the informant, namely Bibha Devi is that on dated 25.11.2017 at

8:00 A.M, her husband was at home, co-villager, Nalindra

Mahto came and asked him to give his company to see their

land at Diyara. But her husband did not come back. She made a

search and went to the house of Nalindra Mahto where she was



informed that her husband was seen with Khanghuru Mahto. On dated 27.11.2017, when she went at the house of Khanghuru Mahto, where he was not available, whose wife informed her that her husband has also not come from Diyara area. It has alleged that even after search when her husband could not be found an apprehension is made that all the accused persons named in the F.I.R. have committed murder of the husband of the informant and have disposed of the dead body in river Ganga.

Learned counsel appearing on behalf of the petitioner submits that the only allegation against the petitioner is that one Nalindra Mahto, son of Tanik Mahto took Vinod Mahto to Diyara, which was seen by one Naresh Das who in his statement under Section 161 Cr.P.C. stated that he had seen the deceased alongwith Khanghuru Mahto. The deceased is still missing/traceless no case on presumption of murder is sustainable against the petitioner was last seen with deceased Vinod Mahto, the husband of the informant. Allegation under Section 302, 201, 34 of the Indian Penal Code has been levelled against the petitioner on mere suspicion.

Learned APP submits that in paragraph no. 46 to 49 of the case diary in course of investigation the independent



witnesses have stated that they have last seen Vinod Mahto deceased alongwith the present petitioner. He further submits that charge-sheet has been submitted under section 302, 201 and 34 of the Indian Penal Code.

Having heard the rival submission of the parties, the material which has been surfaced during course of investigation, the fact as to whether the husband of the informant Vinod Mahto has been murdered by the present petitioner in want of any direct evidence puts the case of the informant based on suspicion. The only material collected against the petitioner that he was last seen alongwith the husband of the informant. The I.O. has not confirmed the death of the husband of informant. Chargesheet has been submitted under section 364 Cr.P.C. Petitioner is in custody since 03.01.2021.

Considering the nature of allegation made against the petitioner and period of custody, without going into the merits of the case, the petitioner above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-I, Barh, District-Patna in connection with Barh P.S. Case No. 355/2017, subject to the following conditions:-



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

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

(3) 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.

(4) 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 bonds.

(Purnendu Singh, J)

Ranjeet/-

U		T	
---	--	---	--

