

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23484 of 2022

Arising Out of PS. Case No.-70 Year-2021 Thana- ASHTHAWAN District- Nalanda

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Shiv Kumar Yadav Son Of Photo Yadav R/O Village- Asthawan, P.S.-
Asthawan, District- Nalanda At Biharsharif

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 28651 of 2022

Arising Out of PS. Case No.-70 Year-2021 Thana- ASHTHAWAN District- Nalanda

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Vijay Yadav Son Of Late Arbind Yadav Resident Of Village- Asthawan, P.S.-
Asthawan, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 34652 of 2022

Arising Out of PS. Case No.-70 Year-2021 Thana- ASHTHAWAN District- Nalanda

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Nepali Yadav son of late lalo yadav resident of village - asthawan bastipur,
p.s.- Asthawan, Distt.- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :
(In CRIMINAL MISCELLANEOUS No. 23484 of 2022)
For the Petitioner/s : Mr.Sheo Kumar Prasad, Advocate
For the Opposite Party/s : Mr.Nand Kumar, APP
For the Informant : Mr. Satya Ranjan Singh, Advocate
(In CRIMINAL MISCELLANEOUS No. 28651 of 2022)
For the Petitioner/s : Mr.Shivam, Advocate
For the Opposite Party/s : Mr.Ashok Kumar, APP
For the Informant : Mr. Satya Ranjan Singh, Advocate
(In CRIMINAL MISCELLANEOUS No. 34652 of 2022)



For the Petitioner/s : Mr.Pravin Kumar, Advocate
For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP
For the Informant : Mr. Satya Ranjan Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 26-09-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Asthawan
P.S. Case No. 70 of 2021, registered for the offence under
Sections 363, 365, 302, 201, 120(B) and 34 of the Indian Penal
Code

The accused/petitioner is not named in the F.I.R. and
is in custody since 12.03.2021.

The allegation against the petitioner is to commit
murder of the son of the informant, along with other co-accused
persons, for longstanding land disputes.

Learned counsel appearing on behalf of the petitioner
submitted that name of the petitioner surfaced on the basis of
confessional statement of co-accused, namely, Guddu Kumar,
and also on self confession. It is submitted that post-mortem
report is unable to suggest cause of death and in want of same, it
cannot be said that confessional statement get its strength by



way of corroboration. It is further submitted that allegation against this petitioner is exclusively based upon suspicion, as land disputes are pending between the parties. While concluding the argument, it is submitted that investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tempering with the evidence.

Learned APP dully assisted by learned counsel appearing on behalf of the informant, while opposing the prayer of bail submitted that in furtherance of confessional statement of co-accused, Guddu Kumar and also of this petitioner, the dead body of the son (deceased) of the informant was recovered from a well, near railway track. It is further submitted that the manner explained in confessional statement, as regard to killing of the son of the informant is in corroborations with post-mortem report, as same is suggesting that **“Subcutaneous tissue under front of neck was congested. Compression fracture of trachea present”**. It is also submitted that trial is under progress.

In view of the facts and circumstances as mentioned above, as dead body of the son(deceased) of the informant recovered in furtherance of confessional statement of this petitioner, where manner of killing appears, prima facie, in



corroboration with internal injury as found during post-mortem, this Court is not inclined to grant privilege of bail to the petitioner, at present.

Accordingly, the prayer for bail of the petitioner is rejected herewith.

The trial court is directed to conclude the trial, preferably, within a period of 06 (six) months after receiving copy of this order, by taking matter on board, on day-to-day basis, if required.

The Superintendent of Police, Nalanda, is directed to produce the charge-sheeted witnesses, as and when directed by the trial court, so as to conclude the trial within aforesaid time period, as directed above.

Cr. Misc. No. 28651 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Asthawan P.S. Case No. 70 of 2021, registered for the offence under Sections 363, 365 and 34 of the Indian Penal Code and subsequently vide order dated 12.03.2021 Section 302, 201 &



120(B) of the I.P.C. were added.

The accused/petitioner is named in the F.I.R. and is in custody since 16.03.2021.

The allegation against the petitioner is to commit murder of the son of the informant, along with other co-accused persons, for longstanding land disputes.

Learned counsel appearing on behalf of the petitioner submitted that name of the petitioner surfaced on the basis of confessional statement of co-accused, namely, Shiv Kumar Yadav. It is submitted that petitioner surrendered before the trial Court on his own on 13.03.2021. It is further submitted that post-mortem report is unable to suggest cause of death and in want of same, it cannot be said that confessional statement get its strength by way of corroboration. It is further submitted that allegations against this petitioner is exclusively based upon suspicion, as land disputes are pending between the parties. While concluding the argument, it is submitted that investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tempering with the evidence.

Learned APP dully assisted by learned counsel appearing on behalf of the informant, while opposing the prayer



of bail submitted that in furtherance of confessional statement of co-accused, Shiv Kumar Yadav, the dead body of the son (deceased) of the informant was recovered from a well, near railway track, where petitioner actively participated in kidnapping. It is further submitted that the manner explained in confessional statement, as regard to killing of the son of the informant is in corroborations with post-mortem report, as same is suggesting that **“Subcutaneous tissue under front of neck was congested. Compression fracture of trachea present”**. It is also submitted that trial is under progress.

In view of the facts and circumstances as mentioned above, as dead body of the son (deceased) of the informant recovered in furtherance of confessional statement of co-accused, Shiv Kumar Yadav with whom petitioner kidnap the deceased, where manner of killing appears, *prima facie*, in corroboration with internal injury as found during post-mortem, this Court is not inclined to grant privilege of bail to the petitioner, at present.

Accordingly, the prayer for bail of the petitioner is rejected herewith.

The trial court is directed to conclude the trial, preferably, within a period of 06 (six) months after receiving



copy of this order, by taking matter on board, on day-to-day basis, if required.

The Superintendent of Police, Nalanda, is directed to produce the charge-sheeted witnesses, as and when directed by the trial court, so as to conclude the trial within aforesaid time period, as directed above.

Cr. Misc. No. 34652 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Asthawan P.S. Case No. 70 of 2021, registered for the offence under Sections 363, 365 and 34 of the Indian Penal Code and subsequently vide order dated 12.03.2021 Section 302, 201 & 120(B) of the I.P.C. were added.

The accused/petitioner is named in the F.I.R. and is in custody since 10.03.2021.

The allegation against the petitioner is to commit murder of the son of the informant, along with other co-accused persons, for longstanding land disputes.

Learned counsel appearing on behalf of the petitioner



submitted that name of the petitioner surfaced in this case only for the reason that the son of the petitioner, namely Sanjay Yadav, who is main co-accused of this case and found inimical terms with informant and his son (deceased) for land dispute. It is submitted that nothing incriminating stated against this petitioner through different confessional statements of co-accused, in furtherance whereof the dead body of the deceased was recovered. It is further submitted that nothing incriminating surfaced, in furtherance of self confession of this petitioner, which may connect him with present set of occurrence and in this regard Para 97 of the Case Diary was pointed out. While concluding the argument, it is submitted that maximum allegation against this petitioner is to be part of conspiracy, where nothing surfaced/recovered, during the course of investigation , that any payment was made to engage hired killers in furtherance of alleged occurrence, moreover, investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tempering with the evidence.

Learned APP dully assisted by learned counsel appearing on behalf of the informant, while opposing the prayer of bail submitted that petitioner was involved in kidnapping but



fairly conceded that allegation against this petitioner is limited with conspiracy only.

Considering the facts and circumstances as mentioned above, as allegation against this petitioner is limited, to be a part of conspiracy, where implication appears being father of the main co-accused, Sanjay Yadav coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Asthawan P.S. Case No. 70 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional District and Sessions Judge, Nalanda at Bihar Sharif/concerned court, subject to the following conditions:

“(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and



exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be Sunil Kumar, who is the Mausera brother of son of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

R.S.Sen/-

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