

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46336 of 2021

Arising Out of PS. Case No.-249 Year-2021 Thana- BIHTA District- Patna

Sunita Devi, W/o Vinod Kumar, R/o village- Makhdumpur, P.S.- Bihta
(Neora), District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mrs. Chhaya Kirti, Advocate
For the Opposite Party/s :	Mr. Shantanu Kumar, APP
For the Informant :	Mr. Ghanshayam Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 05-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mrs. Chhaya Kirti, learned counsel for the petitioner, Mr. Ghanshyam Tiwary, learned counsel for the informant, and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Bihta (Neora) P.S. Case No. 249 of 2021 for the offences punishable under Sections 363, 365 of the Indian Penal Code. Later on Sections 302, 201, 120(B)/34 of the Indian Penal Code has been added.

As per prosecution case, it is alleged that on 23.03.2021 while the informant was going to brick-kiln, his two sons, namely, Saurav Kumar and Gulshan Kumar, from his first



wife came to meet him for purpose of digging a pond for fishing, as per the wishes of their mother, but the informant did not respond to their proposal and thereafter they returned from there by their Tata Safari vehicle. It is further alleged that just near the place of occurrence his two minor sons from the second wife, namely, Anis Kumar and Shivam Kumar were playing. Thereafter the accused persons took them away from the said vehicle and it is further alleged that he tried to chase them along with the near by people, but could not caught them.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner is a lady, who happens to be the first wife of the informant and from their wedlock two sons, who have been made accused, were born. It is further submitted that since the informant and this petitioner were residing separately and as such partition had taken place way back in the year 2013 by metes and bounds in front of the witnesses and as such there was no dispute with regard to the property. It is next submitted that from the tenor of the F.I.R. it is evident that the informant is said to be an eye witness and he has not stated about the presence of the accused persons and moreover specific allegation has been levelled against the sons of the petitioner, who had taken away the sons of the second



wife. It is also submitted that even during the course of investigation, except the confessional statement, there is no other material, which suggest the complicity of this petitioner. However, during the course of investigation, one Nitish Kumar and Nirmala Devi, who are said to be the brother-in-law and mother of second wife, have stated that this petitioner was also present at the place of occurrence, but the same appears to be exaggeration and nothing more. It is lastly submitted that the petitioner is in custody since 27.03.2021 having fair antecedent and moreover the sons of the petitioner are in custody and moreover the investigation of the crime is already concluded and the charge-sheet has been submitted.

On the other hand, learned counsel for the informant vehemently opposes the bail application and has drawn the attention of this Court towards the statement of Nitish Kumar and Nirmala Devi, who are said to be the eye witness of the alleged occurrence and stated that the petitioner was present at the place of occurrence and further the two co-accused in their confessional statements have confessed the involvement of this petitioner in the present crime.

Learned counsel for the State opposes the bail application and submits that during the course of investigation



material has come against the petitioner. However, he fairly submits that the dead body of the deceased have been recovered on the confession made by the sons of the petitioner and not from the confession made by this petitioner. It is also submitted that from the F.I.R. it is evident that the petitioner was not present at the place of occurrence.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the specific allegation has been levelled against the sons of the petitioner, inasmuch as the informant, who is said to be an eye witness to the alleged occurrence, has not stated with regard to the presence of the petitioner and moreover the petitioner being the lady is in custody since 27.03.2021 having fair antecedent, though the investigation of the crime is already completed and charge-sheet has been submitted and keeping the petitioner behind the bar would not serve any purpose, as no further interrogation is required in the matter, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Danapur, Patna in connection with Bihta (Neora) P.S. Case No. 249 of 2021 subject to the condition that



one of the bailors will be the close relatives of the petitioner
with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the
trial.

(ii) She will remain present on each and every date of
trial till disposal of the case.

(iii) She will not try to tamper with the evidence or
intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates
without any cogent reason, her bail bonds will liable to be
cancelled.

(Harish Kumar, J)

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