

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51961 of 2021

Arising Out of PS. Case No.-255 Year-2019 Thana- SIWAN RAIL P.S. District- Saran

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Anjum Khatoon, D/o Raja Hussain R/o village-baghra laxmipur, P.S-Siwan
Muffasil, District-Siwan.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar Sinha, Sr. Advocate. Mr. Ajay Kumar Pandey
For the Opposite Party/s :		Md. Mushtaque Alam, APP.

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

4 03-08-2022 This is second bail application of the

applicant/accused in Crime No. 255 of 2019 registered with

Siwan Rail Police Station for the offences punishable under

Sections 302 and 120(B) r/w 34 I.P.C. as well as Section 27 of

the Arms Act.

His first bail application was rejected by the learned

Predecessor granting him liberty to the applicant to approach

this court, if the trial is not concluded within a period of six

months. It is reported that despite passage of six months time,

there is no progress in the trial.

Heard both the sides.

According to the learned counsel for the applicant,

except confessional statement there is no evidence against the



applicant. Main accused Md. Azaharuddin is already directed to be released on bail by the Co-ordinate Bench of this Court vide order dated 19.03.2021 in Cr. Misc. No. 35989 of 2020.

The learned Additional Public Prosecutor opposed the application by filing counter-affidavit and argued that witnesses have seen no regret or remorse on the face of the applicant. There is evidence of Call Detail Records reflecting the fact that she was communicating with the main accused.

I have considered the submissions so advanced and also perused the material placed before me.

The applicant is wife of deceased Faisal Imam. On 08.12.2019, Faisal Imam had gone to Siwan Railway Station in order to bring back his wife i.e, applicant Anjum Khatoon from Kolkata. However, he was done to death at Siwan Railway Station by firing a bullet at his head. It is the case of the prosecution that the applicant was having love affair with co-accused Azaharuddin and they had conspired and killed Faisal Imam.

Perused the counter-affidavit. According to the investigator, after death of Faisal, the applicant had not expressed any remorse or pain and she has confessed the crime. Similarly, the Call Detail Records shows that she was



communicating with main accused Azaharuddin.

The main accused is already released on bail. The admissibility of the confessional statement in view of bar under Sections 25 and 26 of the evidence Act will have to be looked into by the learned Trial Court as it has not resulted in any recovery or discovery. The Call Detail Records if any, at the most shows that the applicant was communicating with some other person. In this view of the matter, considering the nature of evidence available against the applicant as well as facts that he is behind bars from 11.12.2019, his further pretrial detention is not warranted and therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 255 of 2019 registered with Siwan Rail Police Station be released on bail on executing P.R. bond of Rs.20,000/- (Rupees Twenty Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the



trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the appellant/accused.

(A. M. Badar, J)

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