

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53359 of 2021

Arising Out of PS. Case No.-158 Year-2021 Thana- NATHNAGAR District- Bhagalpur

Ganesh Mandal Son Of Deep Narayan Mandal R/O Village- Manikpur, P.S.-
Babarganj, Dist.- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh, Advocate.

For the Opposite Party/s : Mr. Kumar Veerendra Narayan, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 13-09-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Rajive Ranjan Singh, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

In compliance of the order of this Court, a supplementary affidavit has been filed duly sworn by the daughter of the petitioner wherein she submits that the petitioner is named in five other criminal cases, however, at the time of filing of bail application, she disclosed that the petitioner has no criminal antecedent, hence, the present supplementary affidavit has been filed. Learned counsel for the petitioner submits that she is a married daughter of the petitioner and was unknown of intricacies of law and was not aware about the antecedent and as such, mistake has occurred and she seeks apology from this



court. However, this court is not satisfied with the explanation and as such, this court deems it fit to impose a cost of Rs. 1000/- to be paid within two weeks before the Patna High Court Legal Services Committee.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Nathnagar (Madhusudanpur) P. S. Case No. 158 of 2021 giving rise to Sessions Trial No. 386 of 2021 registered for the offences punishable under Sections 302 read with 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on 07.03.2021 at about 11.00 A.M., the son of the informant went outside to his house with one Pankaj Mandal on a motorcycle. While they were returning to home near mango orchard of one Raju Mandal someone killed his son. It is further alleged that on the said information, he reached to the place of occurrence and found the dead body of his son, he asserted that there was land dispute with Deep Narayan Mandal and his son Ganesh Mandal (petitioner), who wanted to forcefully acquired the land of the informant due to which all the F.I.R. named accused persons including the petitioner killed his son.

Learned counsel appearing on behalf of the



petitioner submitted that from the tenor of the F.I.R., it is evident that there is no eye-witness to the alleged occurrence and only on account of land dispute suspicion has been raised against the petitioner, his father and other persons. It is further submitted that during the course of investigation, it transpired that before the present occurrence there was murder of the brother of Nanda Mandal @ Saurav Kumar and in the said murder suspicion was raised about the complicity of the petitioner and due to which it has come that Nanda Mandal @ Saurav Kumar with the help of Pankaj Mandal and Promod Yadav has killed the deceased. It is next submitted that save and except the suspicion, there is no other material, which suggests the complicity of the petitioner in the present crime. Even during the course of investigation, the statement of independent witness has been recorded and one Manohar Mandal, whose statement has been recorded in paragraph 82 of the case diary stated before the police that when he heard the sound of firing and reached near the place of occurrence, he found that two persons namely Pankaj Yadav and Promod Yadav having pistols in their hands were going on their motorcycle. It is last submitted that after considering the materials available on record co-accused Nanda Mandal @ Saurav Kumar has already



been granted bail by this court in Cr. Mic. No. 48640 of 2021 vide order dated 23.06.2022. It is last submitted that the petitioner is in custody since 09.03.2021.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner is named in the F.I.R. and during the course of investigation ample materials have come against the petitioner.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that save and except the suspicion, there is no cogent material, apart from the fact that co-accused person named in the F.I.R. has already been granted bail by this court and moreover, the petitioner is in custody since 09.03.2021, let the petitioner, above named, 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 IX Additional District & Sessions Judge, Bhagalpur in connection with Nathnagar (Madhusudanpur) P. S. Case No. 158 of 2021 giving rise to Sessions Trial No. 386 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the



trial.

- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He 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, his bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

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(Harish Kumar, J)

