

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59671 of 2021

Arising Out of PS. Case No.-1034 Year-2019 Thana- PATRAKARNAGAR District- Patna

RAMAKANT PRASAD S/o LATE BABULAL PASWAN R/o MOHALLA-
CHHOTI PAHARI, RASHID CHAK, P.S-AGAM KUAN, DISTRICT-
PATNA.

... .. Petitioner.

Versus

THE STATE OF BIHAR

... .. Opposite Party.

Appearance :

For the Petitioner	:	Mr. Ramakant Sharma, Senior Advocate. Mr. Lakshmikant Sharma, Advocate.
For the State	:	Mr. Sanjay Kumar Singh, A.P.P.

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

4 20-07-2022 This is an application for bail in Crime No.1034 of 2019 registered with Police Station-Patrankar Nagar for the offences punishable under Sections 363 and 365 of the Indian Penal Code.

The earlier bail application moved by the applicant was rejected with a liberty to the applicant to apply afresh if the trial is not concluded within a period of six months.

It is reported that despite lapse of a period of more than one year from the date of this order dated 22.03.2021, virtually there is no progress in the trial.

Heard the learned counsel for the applicant. He argued that except inculpatory confessional statement of the applicant made before the Police Officer which is hit by Sections 24 and



25 of the Evidence Act, there is no evidence against the applicant to connect him with the crime in question. It is further argued that the applicant is behind bars from 31.03.2020 and, therefore, his further pretrial detention is not warranted.

The learned A.P.P. opposed the application by contending that apart from the confessional statement, there is evidence of the digital foot print of the applicant inasmuch as his cellphone was found near the cellphone of Meena Devi, who went missing.

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

The F.I.R. of the subject crime is lodged by one Piyush Raj on 08.12.2019 informing that his mother went missing from 08.12.2019. In this missing report, the informant has not suspected any body. He has not even disclosed the actual date on which his mother Meena Devi went missing.

It is seen that during the course of investigation, pieces of bones were recovered from Gandak river but this forensic evidence is not matching with the prosecution case. Confessional statement of the applicant cannot be said to be a legally admissible evidence unless and until it is shown that it has resulted in recovery or discovery of the relevant fact.



Location of the cellphone of the applicant cannot be given an overwhelming importance at this stage.

Considering the nature of evidence against the applicant so also the fact that he is behind bars from March 2020, his further pretrial detention is not warranted. Therefore, the following orders:

(i). The application is allowed.

(ii). The applicant in Crime No.1034 of 2019 registered with Police Station-Patrakar Nagar for the offences punishable under Sections 363 and 365 of the Indian Penal Code, be released on bail on executing P.R. bond of Rs.10000/-(Rupees Ten Thousand) and on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions:

(I). The applicant should not extend any threat, promise or 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 should cooperate the trial in expeditious disposal of the trial against him.

(III). The applicant 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 applicant.

(A. M. Badar, J)

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