

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60289 of 2021

Arising Out of PS. Case No.-834 Year-2020 Thana- BIHAR District- Nalanda

Md. Prince @ Badre Alam S/O Md. Khurshid Alam R/O Mohalla-Sherpur,
P.S-Bihar, District-Nalanda.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Anil Chandra, Adv.
For the Opposite Party/s	:	Mr.Pranav Kumar, APP
For Informant	:	Mr. Sanjay Parasmani, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 31-03-2022

Heard.

The petitioners seek regular bail in connection with Bihar P.S. Case No. 834 of 2020, registered for the offence punishable under sections 363, 302/ 201, 120(B)/34 of the Indian Penal Code.

The allegation, according to the informant namely Shamsad Khan @ Sonu, is that his son had left his house alone on 20.12.2020 in the evening at about 5 P.M. and at about 7 P.M. he had called on the mobile phone of his younger son and told him that he was going to attend a marriage ceremony, hence he would come a bit late to his home. It is the further allegation of the informant that the said son of the informant



did not come back to his house even late in the night and when the informant tried to contact him on his mobile phone, the same was found to be switched off. It is also alleged that the petitioner was last seen with one of the co-accused person namely Md. Chand with whom he was eating and drinking. Subsequently, the dead body of the son of the informant was recovered.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and is languishing in custody since 20.12.2021. The learned counsel for the petitioner has further submitted that there is no eye witness to the alleged occurrence and even the petitioner has not been last seen by any witness in the company of the deceased son of the informant, nonetheless, he has been implicated in the present case merely upon the disclosure made by the co-accused person namely Md. Chand, in his confessional statement before the police, which has got no evidentiary value in the eyes of law. Thus it is submitted that the petitioner be granted the privilege of bail.

Per contra, the learned APP for the State and the



learned counsel for the informant have vehemently opposed the prayer for bail and have submitted that the complicity of the petitioner is writ large from the records as is apparent from the case diary. The learned APP for the State has referred to paragraph no. 39 of the case diary wherein reference has been made to the confessional statement of the co-accused person namely Md. Chand, who, in his confessional statement, has stated that he had called the deceased Md. Asif and after they had eaten and taken drinks together, the petitioner herein had arrived there with his two friends, whereafter all of them had gone in a car towards Rajgir and when they had reached near Baapgana and a secured/ lonely place was found, the petitioner had cut the neck of the son of the informant and killed him. The said Md. Chand had also disclosed that in the said car along with him and the petitioner, other co-accused persons namely Md. Aadil and his friends were also present.

The learned APP for the State has also submitted that the said occurrence, as narrated by the co-accused person namely Md. Chand, in his confessional statement, stands corroborated from the postmortem report as also from the confessional statement of the co-accused person namely Md.



Aadil. It is also submitted by referring to the case diary that some of the independent witnesses have stated that they had seen the deceased, the petitioner and others traveling on a red colour maruti car at about 8 P.M. on the fateful day/ night, which also corroborates the alleged incident. It is also submitted by referring to the case diary that previously also altercation had taken place in between the deceased and the petitioner and the deceased is stated to have threatened the petitioner that he would kill him by firing gun shots on him. Lastly, it is submitted by referring to the case diary that call detail report has also been obtained by the Investigating Officer and upon examination of the same, the location of the petitioner has been found to be near about the alleged place of occurrence, not only on the day of occurrence, but also a day before, which goes to show that the petitioner had visited the said place, where the dead body of the deceased son of the informant had been thrown, on the previous day as well with a view to ensure a full proof plan regarding murdering the deceased son of the informant.

I have heard the learned counsel for the parties and have gone through the materials on record as also have perused



the case diary including the supervision note submitted by the Sub-Divisional Police Officer dated 20.01.2021 from which I find that ample evidence and materials are available on record to suggest the complicity of the petitioner in the alleged killing of the son of the informant. Considering the materials available in the case diary against the petitioner herein as also those discussed herein above by way of submission advanced by the learned APP for the State, I do not find the present case to be a fit case for grant of bail to the petitioner herein, hence, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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