

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65083 of 2021

Arising Out of PS. Case No.-316 Year-2021 Thana- GHOSI District- Jehanabad

Sonu Bind, Son of Rameshwar Bind Resident of Village- Khirauti, P.S.- Ghosi, District- Jehanabad.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Vindhayachal Singh, Sr. Advocate Mr. Umesh Kumar, Advocate
For the State	:	Mr. Ajit Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 08-08-2022 Heard Mr. Vindhayachal Singh, learned Senior Counsel assisted by Mr. Umesh Kumar, learned counsel appearing on behalf of the petitioner and Mr. Ajit Kumar, learned A.P.P. for the State.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with Ghosi P.S. Case No. 316 of 2021, for the offence punishable under Sections 302 and 120(B) of the Indian Penal Code.

As per the allegation made in the F.I.R., the petitioner has been made accused for alleged murder of brother of informant.

Learned counsel appearing on behalf of the petitioner submits that the petitioner has been made accused in the present



case on the basis of C.D.R that the mobile instrument used by him belonged to the deceased. It is his specific submission that he had found the mobile on an abandon place and deying any involmment in the murder. He further submitted that there is multiple injury on the body of the deceased is by sharp edged weapon could not have been caused without empowering the deceased who was middled age man with the involvement of other accused persons. In course of investigation, the I.O. has not been able to bring on record any material to show as to whether the mobile phone, which was earlier being used by the deceased was purchased by the deceased or the same belonged to any of his family members and in absence of any receipt to that effect on mere suspicion since the mobile phone found to be used by the petitioner the petitioner cannot be held liable to have committed murder. The F.I.R. is against unknown and the prosecution has also failed to bring on record any cogent material to implicate petitioner in the alleged murder of the brother of the informant. The petitioner has clean antecedent and he is in custody since 17.07.2021.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner and submitted that on 07.07.2021, the dead body of the brother of the informant was found and on the very next day the petitioner had used the



mobile phone of the deceased. CDR report has established the said fact, therefore, the involvement of the petitioner in commission of murder of the brother of informant cannot be denied. The petitioner does not deserve to be released on bail.

Having heard the rival submissions of the parties, it appears that the F.I.R. is against unknown. The petitioner has been implicated in this case on the basis of CDR report in which it has come in course of investigation that the mobile phone was being used by the deceased till his death. As per the CDR the petitioner was found to have used the mobile set using SIM registered in his own name. There is no eye-witness to the alleged murder. The prosecution has raised suspicion on the basis of the fact that the mobile phone bearing IMEI No. 869445038965560 which was being used by the accused has been used by the petitioner. No motive have been assigned for the commission of murder. The petitioner is aged about 20 years. The petitioner has clean antecedent and he is in custody since 17.07.2021. The Chargesheet has already been submitted and there is unlikely chances of the trial being concluded in the near future. The law is well settled in this regard that a strong suspicion, howsoever, cannot take the place of proof and for suspicion an under-trial cannot be kept behind the bar, even after completion of investigation.



The petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Jehanabad in connection with Ghosi P.S. Case No. 316 of 2021, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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