

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66706 of 2021

Arising Out of PS. Case No.-243 Year-2017 Thana- DESARI District- Vaishali

Reeta Devi W/o Akhilesh Mahto Resident of Village- Bihajadi, P.S.- Desari
(Sahdei O.P.), Districct- Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Parijat Saurav, Advocate

For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

2 02-02-2022 The applicant/accused in Crime No. 243 of 2017 registered with Desari (Sahdei O.P.) Police Station for the offences punishable under Sections 302, 120B read with Section 34 of the Indian Penal Code, by this application is seeking her release on bail during pendency of the trial.

The applicant is given out of turn hearing on the ground that the applicant is a lady and her two small children are without any parental care.

Heard the learned counsel appearing for the applicant/accused. He argued that except inadmissible evidence in the form of confessional statement of co-accused Randhir Kumar Singh there is no evidence against the applicant in the instant case.

The learned Additional Public Prosecutor has



conceded this fact and has categorically stated that except confession of co-accused Randhir Kumar Singh there is no evidence to connect the applicant to the crime in question.

I have considered the submissions so advanced and perused the FIR lodged by Sunil Mahto- brother-in-law of the present applicant.

The applicant is wife of Akhilesh Mahto. Deceased Bujji Mahto is her father-in-law. They all were residing jointly. As seen from the FIR lodged by her brother-in-law Sunil Mahto, deceased Bujji Mahto was having inimical relations with neighbour, namely, Jeebash Mahto. In the FIR, finger of suspicion is raised against said Jeebash Mahto. It is averred by the first informant that in the midnight of 16.10.2019 when deceased Bujji Mahto was sleeping in the front-yard of the house, two unknown persons stabbed him and ran away. Upon hearing hue and cry of Bujji Mahto, neighbour Raudi Mahto's wife and the present applicant rushed on the spot and took deceased Bujji Mahto to the government hospital but on the way to hospital Bujji Mahto died.

As against this FIR pointing finger of suspicion on the neighbour, arrested co-accused Randhir Kumar Singh is



stated to have given his confessional statement to the police stating that he along with another co-accused Amit Paswan had been to the house of the applicant for meeting the applicant but as Bujji Mahto woke up and saw them, they stabbed Bujji Mahto. I am unable to understand under which provisions of law such confession made to the police by the co-accused can be considered and is admissible as evidence. Even if it is look into then also no criminal act is attributed to the present applicant. Except this, according to the learned Additional Public Prosecutor, there is no other evidence to connect the applicant to the crime in question. Hence, I see no reason to refuse bail to the applicant after filing of the charge sheet. Therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 243 of 2017 registered with Desari (Sahdei O.P.) Police Station be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten 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 her 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 applicant/accused.

(A. M. Badar, J)

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