

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70427 of 2021

Arising Out of PS. Case No.-97 Year-2019 Thana- GOPALPUR District- Gopalganj

Ramaji Tiwari @ Ramji Tiwari @ Ramaji S/o Shivdhari Tiwari @ Shidhar Tiwari R/o village- Daniyari, P.S.- Tareya Sujan, District- Kushinagar, (Uttar Pradesh)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Uday Pratap Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 11-10-2022 Heard learned counsel for the petitioner and learned APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks.

In the present case, the petitioner seeks bail in connection with Gopalpur (Gopalganj) P.S. Case No. 97 of 2019 registered for the alleged offences under Sections 302 and 201 of the Indian Penal Code.

As per prosecution case, a dead body was recovered and the FIR was registered at the instance of the local *Chowkidar*. Later on, the name of the petitioner transpired as one of the accused persons who committed this murder along with co-accused Niraj Devi and the deceased is stated to be the



husband of the co-accused.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner has been named in this case on the basis of confessional statement of the co-accused Niraj Devi. But the petitioner has nothing to do with the alleged occurrence. He is a professional truck driver doing his driving work in Nepal. Learned counsel further submits that the dead body was not sent for the post mortem, so it is not possible to say how the death occurred. Moreover, even the identification of the dead body is doubtful as the same was identified by the family members on seeing the photographs on mobile phone and this mode of identification cannot be said to have any certainty regarding identification. Moreover, nothing has come up except for the confessional statement to connect the petitioner with the alleged occurrence. The petitioner is in custody since 24.08.2021 and charge-sheet has been submitted.

Learned APP opposes the prayer for bail submitting that the petitioner was named by the co-accused with whom he was having illicit relationship and in order to continue his relationship, the co-accused killed the husband of the co-accused.



Having regard to the submissions made hereinabove and considering the fact that charge-sheet has been submitted and further considering the distinct lack of material to connect the petitioner with the offence as alleged and considering the period of custody along with the submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Gopalganj in connection with Gopalpur (Gopalganj) P.S. Case No. 97 of 2019, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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