

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28854 of 2023

Arising Out of PS. Case No.-437 Year-2022 Thana- MUFFASIL District- Aurangabad

SHEKH JAWED AHMED @ SEKH JAWED AHMED Son of Shekh Julum Ahmad @ Sekh Julum Ahmed Resident of village-Gobari, Semra, Ward No. 6, P.O.-Mokhilspur, Police Station-Banjaria, District-East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prafull Chandra Jha

For the Opposite Party/s : Mr.Pramod Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 30-08-2023

1. Heard the parties.

2. The petitioner apprehends his arrest in connection with Muffasil PS Case No. 437 of 2022 (G.R. No. 3095 of 2022) dated 27-12-2022 registered under Sections 302, 201 and 120 (B) of the I.P.C.

3. As per the First Information Report, one 10-Wheeler truck having Registration No. BR-06GA-3819 started from Chapwa, Motihari to Aurangabad on 21-12-2022 in which one Ratnesh Kumar was the driver and brother of the informant (deceased) was the co-driver. It has further been stated that the informant received information from the mother of the driver that his brother has



disappeared from the vehicle. Thereafter, he talked with the petitioner (owner of the truck) and the petitioner confirmed that his brother was missing. As per the statement of the driver / Ratnesh Kumar, the brother of the informant disappeared from the parking of the cement plant at Ariya, Aurangabad. It has further been alleged that the informant demanded G.P.S. of the vehicle from which it appears that the vehicle was not parked near the parking of the cement plant. On 23-12-2022 the petitioner arrived at Aurangabad with the driver and was told by the driver that brother of the informant disappeared from the cement plant and when asked the second time the driver told that the deceased brought one girl from Harsidhi and stayed at Chhapra and told the driver - Ratnesh Kumar that he would return in ten days after solemnizing marriage. On 27-12-2022 one dead body was found near the cement plant and the informant identified the dead body as his brother. It has been alleged that petitioner and the driver has killed the brother of the informant.

4. Learned counsel for the petitioner submits that petitioner is the owner of the truck which was being driven



by the driver / Ratnesh Kumar and the deceased was the co-driver. The truck started from Chapwa, Motihari for Aurangabad for transportation of some materials. The driver has made contradictory statement before the Police and when the petitioner produced the driver before the Police, the driver was not interrogated and he was handed over to the petitioner and the petitioner in turn handed him over to his father. He further submits that petitioner being the owner of the truck has been implicated in this case on the basis of suspicion only. There is no *prima facie* material to connect the petitioner with the present offence. Learned Sessions Judge has rejected the bail application of the petitioner on the ground that during investigation it has come that the petitioner was in contact with the driver and the deceased but upon perusal of the C.D.R. it transpires that the deceased was in continuous contact with the wife of the petitioner - Hena Sahab. Learned counsel submits that as per C.D.R. the owner of the SIM is Mrs. Ahmadi Khatun, who is not the wife of the petitioner rather she is the mother-in-law of the petitioner and the mobile phone along with SIM was gifted to the petitioner by his mother-



in- law.

5. On the other hand, learned counsel for the informant vehemently opposed the prayer for bail and submits that during course of investigation the driver of another truck has stated that petitioner had called him on 22.12.2022 and told that deceased was missing since 21.12.2022. He further told the witness not to call the petitioner and whenever he feels he may call him on Whatsapp. He further submits that the mobile phone of the witness was formatted by the petitioner which gives rise to suspicion regarding the involvement of the petitioner in the present case.

6. Having heard learned counsel for the parties and upon perusal of the materials on record it appears that the petitioner has been made accused in this case on the basis of suspicion only and no *prima facie* material has come to connect him with the present offence and the petitioner has got no criminal antecedent, as such, I am inclined to grant anticipatory bail to the petitioner.

7. Let the petitioner, above named, be released on anticipatory bail in the event of arrest or surrender before



the court below within a period of four weeks from today on furnishing bail bond of Rs. 10000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Aurangabad in connection with Muffasil PS Case No. 437 of 2022 (G.R. No. 3095 of 2022) subject to the condition as laid down under Section 438 (2) of the Cr.P.C. and further condition that the petitioner will co-operate in the investigation and shall present himself as and when required by the Police and the Court below.

(Anil Kumar Sinha, J)

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