

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53306 of 2023

Arising Out of PS. Case No.-124 Year-2022 Thana- NATHNAGAR District- Bhagalpur

Panku Paswan @ Pankaj Paswan, aged about 27 years, Male, Son of Late Ram Paswan, resident of Village- Gosaindaspur, P.S. - Nathnagar, District - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Syed Masleh Uddin Ashraf, Advocate

For the Opposite Party/s : Mr. Anil Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 13-12-2023 Heard Mr. Syed Masleh Uddin Ashraf, learned counsel appearing on behalf of the petitioner and Mr. Anil Kumar, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Nathnagar P.S. Case No. 124 of 2022 registered for the offence punishable under Sections 302/34 of the Indian Penal Code.

3. As per the allegation made in the FIR, mother of the informant had gone to see the field and did not return back and on next day, her dead body was found. Petitioner is named in the FIR along with other accused persons.

4. Learned counsel appearing on behalf of the petitioner submitted that there is no eye-witness to the alleged



incidence with respect to the murder of the mother of the informant. Brother of the petitioner is *Chaukidaar* and the father of the informant is a veteran criminal and due to enmity, the petitioner has been implicated in a false case. Learned counsel further submitted that suspicion raised on the basis of tower location and C.D.R. details that the petitioner was near the place of occurrence and C.D.R. details shows that he was in communication with some of the accused persons named in the FIR. Learned counsel further submitted that law is well settled that a strong suspicion, howsoever, cannot take the place of proof. He further submitted that two other accused persons, namely, Brajesh Kumar Mandal @ Brajesh Kumar and Kuli Mandal @ Kuldeep Mandal, who have been named in the FIR have already been released on pre-arrest bail by a co-ordinate Bench of this Court vide order dated 14.11.2022 passed in Criminal Miscellaneous No. 26924 of 2022. Petitioner has clean antecedent. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Learned APP for the State submitted that petitioner is named in the FIR and case diary reveals that the involvement of the petitioner in commission of murder of the mother of the informant cannot be ruled out. C.D.R. details shows that the



petitioner was in directed touch with the some of the accused persons named in the FIR, who had enmity with the husband of the deceased and that led to the commission of murder of the mother of the informant. There is strong suspicion that petitioner was present at the place of occurrence as per the tower location and C.D.R. details. The petitioner does not deserve to be released on pre-arrest bail taking into consideration the serious nature of allegation.

6. Having considered the rival submission made on behalf of the parties, as well as, the allegation made in the FIR and the material collected in course of investigation. Case of murder was registered in which petitioner and other accused persons have been named in the FIR. The Investing Officer has recorded in paragraph no. 236 of the case diary that tower location and C.D.R. details show that petitioner was present at the place of occurrence, however, the petitioner is of the same village and the location cannot be adjudged as an evidence that petitioner is the one, who has committed the offence. In paragraph no. 170 to 174 of the case diary, the independent witnesses have also supported the statement of the petitioner made in paragraph no. 8 of the bail application that the brother of the petitioner is *Chaukidaar* of the village and father of the



informant is a veteran criminal and due to enmity, the petitioner has been implicated in the present case. The independent witnesses have not supported the allegation that petitioner is the one, who had committed the murder of the mother of the informant. Minuscule evidence has been collected against the petitioner and other accused persons namely, Brajesh Kumar Mandal @ Brajesh Kumar and Kuli Mandal @ Kuldeep Mandal, who have been named in the FIR have already been released on pre-arrest bail by a co-ordinate Bench of this Court vide order dated 14.11.2022 passed in Criminal Miscellaneous No. 26924 of 2022. Law is well settled that a strong suspicion, howsoever, cannot take the place of proof. Petitioner has clean antecedent. I am of the opinion that petitioner has, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhagalpur, in connection with Nathnagar P.S. Case No. 124 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.



8. The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J)

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