

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66729 of 2022

Arising Out of PS. Case No.-501 Year-2019 Thana- MASHRAK District- Saran

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MUKESH KUMAR RAY S/o Tribhuvan Ray, R/o Village- Bangra
Dumarasan, P.S.- Mashrakh, Distt- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh

For the Opposite Party/s : Mr.Satya Nand Shukla

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL JUDGMENT

Date : 01-05-2023

I have already heard Mr. Bijay Prakash Singh, the learned counsel for the petitioner as well as Mr. Satya Nand Shukla, the learned Additional Public Prosecutor for the State.

The petitioner is seeking regular bail in connection with Mashrak P.S. Case No. 501 of 2019, registered for offence punishable under Section 363 of the Indian Penal Code.

The informant of this case is Surendra Rai. He has mentioned in his written report, addressing to S.H.O., Mashrak, Chapra (Saran), that his son Rajeev Kumar, aged about 17 years, went out from the house at about 10:00 A.M. on 08.11.2019, but he did not return. At 8:00 P.M., Rajeev Kumar informed his father that he was in Chapra. Thereafter, his mobile set became



switched off. Despite hectic search, he could not be traced out. On 15.11.2019 at about 6:30 P.M., the informant tried to ring him again on his mobile no. 7352516807, but it was switched off. During the course of investigation, the Investigating Officer found that the headless body of the deceased was found in District-Bhojpur in Barhara Police Station and it was identified that it was the dead body of son of the informant.

The learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material was recovered from his possession and his name has figured only on the basis of confessional statement of co-accused Rahul Kumar. He has also submitted that the FIR has been lodged after a delay of twelve days.

On the other hand, the learned APP has opposed the prayer for bail and has submitted that when the Investigating Authorities collected the call detail records (CDRs) and IMEI number of the mobile phone of the deceased, it was detected that the mobile phone belonging to the deceased was in possession with one Saket Kumar. Paragraph 40 of the case diary reveals that when Saket Kumar was apprehended, he disclosed that he was running a mobile repair shop and one



Dhiraj Kumar had given him two mobile sets for repairing. One of those two mobile sets, Dhiraj Kumar left one mobile set in lieu of remuneration of repairing, which was with Saket Kumar. It was found that it was the mobile set of the deceased. During investigation, it was also found that before his death, the deceased had a call on the mobile phone of co-accused Rahul Kumar on his mobile no. 7970687346. Thereafter, Rahul Kumar was apprehended and furnished the detailed description of entire occurrence in his self inculpatory confessional statement recorded in paragraph no. 94 of the case diary. He has stated that he developed friendship with the deceased. They were involved in committing theft. The deceased had developed intimacy with second wife of co-accused Binod Ram due to which co-accused Rahul Kumar, Binod Ram and the petitioner hatched a conspiracy to eliminate the deceased. As per pre-planning, all of them consumed liquor. The deceased also consumed liquor in excessive quantity. When due to excessive consumption the deceased was in semi-conscious state, the petitioner caught hold of his hand and co-accused Binod Ram with a knife severed the head of the deceased from his body. Having left torso, they took the head in a bag (*Jhola*) and after some distance, the head was concealed in a pit.



On the basis of CDR, the culprits were apprehended.

One of them (Rahul Kumar) has narrated the entire occurrence and has furnished the vivid description of the entire occurrence.

In my view, it is not a proper case for grant of bail. It is accordingly rejected.

(Nawneet Kumar Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
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