

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66864 of 2022

Arising Out of PS. Case No.-87 Year-2022 Thana- BHAIKAVSHTHAN District- Madhubani

Md. Minhaz, S/o Late Abdul Hafiz, R/v- Tufanpur, P.S.- Khutauna, District-
Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Advocate

Mr. Rajesh Kumar, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 25-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Rama Kant Sharma, learned senior counsel duly assisted by Mr. Rajesh Kumar, learned counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Bhairavsthan P.S. Case No. 87 of 2022 (G.R. No. 802 of 2022) registered for the offence punishable under Sections 302 / 201 of the Indian Penal Code.

The prosecution case is based on the fardbeyan of the informant, alleging therein, that a dead body was found floating in a *pokhar* and on an information given to the police, the dead body was recovered, however, none of them identified the dead



body.

Learned senior counsel appearing on behalf of the petitioner submits that the FIR was instituted against the unknown persons, however, during the course of investigation, one “Amir Kumar” was apprehended and his extra judicial confession has been recorded before the police that he had been working as a driver of the pickup van, by hatching a conspiracy by other accused persons, caused death of the deceased and, thereafter, the pickup van of the deceased was sold to one “Md. Minhaz (petitioner)” and “Dr. Sanjeet” at the agreed amount of Rs. 1,30,000/-. It is submitted at the bar that save and except the confessional statement, there is no material suggesting the complicity of the petitioner in the present crime and even if the allegation taken to be true, as has been made in the confessional statement that is not with regard to the act of causing death of the deceased rather the allegation against the petitioner is only with regard to the purchase of pickup van from the accused person and, as such, in any view of the matter, the petitioner cannot be held responsible for the offence under Section 302 / 34 of the Indian Penal Code. He next submits that the petitioner is found involve in four other criminal cases and in fact this is



also one of the reason of implicating the name of the petitioner, however, he is on bail in all the other cases, as has been mentioned in paragraph no. 3, apart from the fact that the petitioner is in custody for over a period of eight months and now the charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence or intimidating the witnesses. Learned senior counsel also drawn the attention of this Court to the impugned order and submitted that during the course of investigation, no other material has come save and except the confession, as is evident from the impugned order.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner is the person who purchased the pickup van of the deceased person and his complicity in the crime cannot be denied.

Regard being had to the submissions made on behalf of the parties and considering the fact that there is no eyewitness to the alleged crime and the only material against the petitioner is of purchasing the pickup van of the deceased persons, and it also appears from the confessional statement of co-accused that he had no knowledge of earlier incident of crime, let the



petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate - I, Jhanjharpur, Madhubani in connection with Bhairavsthan P.S. Case No. 87 of 2022 (G.R. No. 802 of 2022), subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail



bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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