

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9709 of 2023

Arising Out of PS. Case No.-2 Year-2022 Thana- MEDNI CHAUKI District- Lakhisarai

1. Pinki Devi Wife of Punil Paswan @ Puna Paswan, R/o Village- Rishi Paharpur, P.S.- Mednichowki, District- Lakhisarai
2. Punil Paswan @ Puna Paswan, Son of Kantu Paswan, R/o Village- Rishi Paharpur, P.S.- Mednichowki, District- Lakhisarai

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Ms. Priyanka Singh, Advocate Mr. Madhav Raj, Advocate Mr. Adarsh Singh, Advocate
For the Opposite Party/s	:	Mr. Anil Kumar Singh No.1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 26-06-2023 Heard Mr. Yogesh Chandra Verma, learned senior counsel for the petitioner no.2, Mr. Punil Paswan @ Puna Paswan and Mr. Anil Kumar Singh No.1, learned Additional Public Prosecutor for the State.

Petitioner no.1, namely, Pinki Devi already granted bail by this Court vide order dated 11.05.2023 and present bail petition is limited now with petitioner no.2, namely, Punil Paswan @ Puna Paswan.

The accused/petitioner seeks bail in connection with Sessions Trial No.123 of 2022 arising out of Mednichowki P.S. Case No.2 of 2022 registered for the offences punishable



under Sections 363 of the Indian Penal Code but, later on, Sections 302 and 201 read with 34 of the Indian Penal Code were added in the FIR.

The accused/petitioner named in the FIR and is in custody since 06.01.2022.

Allegation against the petitioner is to commit murder of son of the informant along with other co-accused persons/family members and also to disappear the dead body of the deceased. The allegation is in the background of suspicion that the deceased-son of informant was in love affairs with wife of petitioner.

It is submitted by Mr. Yogesh Chandra Verma, learned senior counsel while arguing on behalf of the petitioner that the narration of FIR itself speaks the basis of implication. It is suspicion out of love affairs of deceased-son with wife of this petitioner. It is submitted that admittedly informant is not the eye-witness of the occurrence and the present allegation rest upon circumstantial evidence. It is submitted that during the course of investigation on the basis of suspicion as raised through present FIR, the petitioner was arrested, where his confession was obtained. It is submitted by learned senior counsel that the confession is self-incuplatory in nature, where it



is confessed that the crime in question was committed by petitioner, where the murder was committed by making an assault with axe (*kulhari*). It is submitted that the dead body was recovered from open area, i.e. a nearby river where upon postmortem of the deceased, the cause of death was shown 'drowning due to asphyxia' where one deep injury over left side of face was also noticed. It is submitted that even assuming the inculpatory statement of petitioner that the injury found upon face was caused by axe, the cause of death is apparently different i.e. 'drowning caused due to asphyxia' creating a serious doubt over entire allegation and even not supporting the self-inculpatory version of the petitioner as obtained through his confession. While concluding argument, it is submitted that petitioner is a man of clean antecedent and moreover investigation of this case is completed long back, where charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence. It is also pointed out that petitioner is in custody since 06.01.2022 and still the prosecution evidence is to start in this case and, as such, conclusion of trial is a remote aspect.

Learned APP while opposing the prayer for bail submitted that alleged axe used to assault the deceased-son was



recovered from his house, which appears to be stained with blood but, fairly conceded that the said house is jointly occupied by different family members and even forensic science laboratory report is not confirming that whether blood-stain is of human or else.

In view of the above-mentioned facts and circumstances and by taking note of finding of postmortem report, where cause of death is altogether different i.e. “drowning caused due to asphyxia” negating entire allegation and manner as to commit murder obtained through confessional statement of petitioner, coupled with the fact that petitioner is a man of clean antecedent, where trial also appears not to conclude in near future, accordingly, the petitioner no.2, Punil Paswan @ Puna Paswan is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Lakhisarai/concerned Court in connection with S.T. No.123 of 2022 arising out of Mednichowki P.S. Case No.2 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC with further conditions:

- (i) That accused/petitioner shall co-operate in the trial and shall be physically present



on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioner duly supported by the documents; and

(ii) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J.)

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