

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74055 of 2023

Arising Out of PS. Case No.-62 Year-2020 Thana- SAHAJITPUR District- Saran

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AMERULLAH, SON OF MANBAL MIYA, R/O VILLAGE- HAFIZPUR
PS- SAHAJITPUR DISTRICT- SARAN AT CHAPRA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha, Advocate

Mr. Saurabh Kumar, Advocate

For the Opposite Party/s : Mr. Md. Aslam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

4 05-03-2024

1. Heard learned counsel for the parties.

2. The petitioner has preferred this application for grant of regular bail in connection with Sessions Trial no.298 of 2021, arising out of Sahajitpur P.S. Case no. 62 of 2020 registered under sections 302 and 34 of the Indian Penal Code.

3. As per the prosecution case, the informant states that his sister was married to the petitioner herein about 14 years ago. There was dispute relating to land in the in-law's family of his sister. It is stated that he received information about his sister having been done to death with a sharp cutting weapon. On reaching his sister's house, he was told that she was assaulted with a *kudaal*.



4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case only for the reason that he happens to be the husband of the deceased. Admittedly, the informant is not an eye witness to the occurrence. It is submitted that the petitioner is in custody since 18.6.2020 and inspite of his having cooperated in the trial, only three witnesses have been examined on behalf of the prosecution, the date of their examination being 25.2.2022, 20.8.2022 and 2.2.2023. None of the three witnesses supported the prosecution case and were declared hostile. No witness has been examined for the last more than 1 year. The petitioner undertakes to cooperate in the trial and to abide by any condition which may be laid by this Court for his release on bail.

5. The application for bail is opposed by learned APP for the State.

6. A report was called for from the learned trial Court. As per the report received, out of the 11 witnesses, 3 witnesses have been examined. Learned trial Court has issuedailable warrants for appearance of the non-official witnesses and summons for appearance of the official witnesses.

7. Having heard learned counsel for the parties and



taking into consideration the allegations in the FIR, the contents of the deposition of the three prosecution witnesses who were examined in course of trial who have all been declared hostile and the contents of the report of the learned trial Court according to which the witnesses are not appearing inspite of issuance of bailable warrants against the non-official witnesses and summons against the official witnesses together with the petitioner having remained in custody for more than 3 years 8 months since 18.6.2020, the petitioner is directed to be enlarged on bail in connection with Sessions Trial no.298 of 2021 (arising out of Sahajitpur P.S. Case no. 62 of 2020) on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District Judge-XI, Saran at Chapra on the following conditions:-

(I) The petitioner shall remain physically present in the trial court on each date of the trial and shall cooperate in the trial.

(II) In case of the petitioner not cooperating in the trial or the petitioner remaining absent on any date for reasons not to the satisfaction of the learned trial court, the learned trial court may cancel the bail bond of the petitioner and take him



into custody till conclusion of the trial.

(Partha Sarthy, J)

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