

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89893 of 2025

Arising Out of PS. Case No.-429 Year-2025 Thana- BIHAR District- Nalanda

Md. Zeeshan @ Md. Dishan Son of Guddu @ Md. Guddu R/o Village - Pakki Talaw, P.S. - Laheri, Dist. - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Kishor Prasad

For the Opposite Party/s : Mr.Ramchandra Sahni

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
CAV ORDER

4 25-03-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has prayed for bail in connection with Bihar P.S. Case No. 429 of 2025 registered for the offence punishable under Sections 137(2), 87, 238 and 103(1) of the B.N.S., 2023.

3. The case of the prosecution in short is that the petitioner has enticed the wife of the informant and has taken her away. After much effort, she could not be searched and the informant gave information for searching his wife. Ultimately, the dead body of his wife was recovered.

4. Learned counsel appearing on behalf of the petitioner has submitted that petitioner is innocent and has committed no offence. He has been falsely implicated in this case. He has further



submitted that in this case, from perusal of the para-20 of the case diary, it is clear that the petitioner has given his confessional statement and has confessed his guilt and has also stated that he has concealed the dead body of the deceased in half-constructed house with the help of his associates and the same was recovered on his disclosure. Learned counsel has submitted that only the material against him is his confessional statement and that save and except, his confession, there is nothing against him. A statement has been made in para-3 of this petition that the petitioner has got no criminal antecedent. Moreover, he is languishing in judicial custody since 15.07.2025.

5. Learned counsel has further relied on a judgement of Hon'ble Supreme Court in the case of Aghnoo Nagesia v. State of Bihar reported in AIR 1966 Supreme Court 119 wherein in para-21 of the judgment, Hon'ble Supreme Court has held which is being reproduced hereunder for reference:-

21. Section 27 applies only to information received from a person accused of an offence in the custody of a police officer. Now, the Sub-Inspector stated he arrested the appellant after he gave the first information report leading to the discovery. Prima facie, therefore, the appellant was not in the custody of a police officer when he gave the report, unless it can be said that he was then in constructive custody. On the question whether a person 21. Section 27 applies only to information received from a person accused of an offence in the custody of a police officer. Now, the Sub-Inspector stated he arrested the appellant after he gave the first information report leading to the discovery. Prima facie,



therefore, the appellant was not in the custody of a police officer when he gave the report, unless it can be said that he was then in constructive custody. On the question whether a person directly giving to police officer information which may be used as evidence against him may be deemed to have submitted himself to the custody of the police officer within the meaning of S. 27, there is conflict of opinion. See the observations of Shah, J. and Subba Rao, J. in (1961) 1 SCR 14: (AIR 1960 SC 1125). For the purposes of the case, we shall assume that the appellant was constructively in police custody and therefore, the information contained in the first information report leading to the discovery of the dead bodies and the tangi is admissible in evidence. The entire evidence against the appellant then consists of the fact that the appellant gave information as to the place where the dead bodies were lying and as to the place where he concealed the tangi, the discovery of the dead bodies and the tangi in consequence of the information, the discovery of a blood-stained chadar from the appellant's house and the fact that he had gone to Dungi Jharan Hills on the morning of August 11, 1963. This evidence is not sufficient to convict the appellant of the offences under S. 302 of the Indian Penal Code.

6. From perusal of the para-21 of the above judgement, it is clear that Section 27 of the Indian Evidence Act applies only to information received from a person accused of an offence in the custody of the police and from para-20 of this case diary, it is clear that at the time of giving his confessional statement, the petitioner was in custody and he has given his confessional statement before police in police custody and on his disclosure, the body of the deceased was discovered. The argument of the learned counsel that the disclosure made by the petitioner in



police custody will not come in the ambit of Section 27 of the Indian Evidence Act and that the confession made before police leading to discovery cannot be treated as a legal material against the petitioner, has got no force.

7. The application for bail is vehemently opposed by learned APP for the State. He has stated that the dead body of the deceased was recovered on the disclosure made by the petitioner.

8. Having heard learned counsel for the parties and considering the facts and circumstances of the case as stated above, this Court is not inclined to enlarge the petitioner on bail at this stage, as such, his prayer for bail stands rejected.

9. However, the petitioner may be at liberty to renew his prayer for bail if any new circumstance favouring him appears during trial.

10. This bail application stands dismissed.

(Ashok Kumar Pandey, J)

shubham/-

AFR/NAFR	NAFR
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