

IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE-XI
DISTRICT-VAISHALI AT HAJIPUR

(S. Trial No. 127/2021)

State Vs Ramishwar Sah @ Rameshwar

Ld. counsel for petitioners Sri- Vikash Ranjan

Ld. A.P.P. for state- Sri Khalid Lateef

ORDER

25-03-2022 On the behalf of accused namely Ramishwar Sah @ Rameshwar Sah an representation petition under section 317 of the Cr.P.C. has been filed and the same is accepted only for today. Record was put before me for order on the petition filed under section 227 of the Cr.P.C. on the behalf of aforesaid accused person and its rejoinder dt. 25-02-2022 filed on the behalf of the prosecution.

By way of said petition it has been submitted by the accused-petitioner that he is 65 years old person and living in Mumbai and working as Electronic Mechanic and on date of occurrence i.e. on dated 06-11-2019 he was not at the place of occurrence. Petitioner has submitted that there is documentary proof that accused-petitioner lived in Mumbai at the time of occurrence. It has been further submitted that the postmortem was conducted by the three doctors and they jointly found that the case is suicidal nature but police officer does not investigate in this point and charge-sheet submitted against the petitioner which is against the natural justice. It has been further submitted that the informant also told in her F.I.R. that she reached Hajipur station and lodged F.I.R. against the petitioner and she has not present at the time of place of occurrence. Furthermore no any independent witness called against the petitioner. Only land of village temple is in dispute due to that reason informant lodged this false case against the petitioner. Moreover the prosecution case is false in the eye of law. Accordingly it has been submitted that he may be discharged from this case

While otherside by way of rejoinder it has been submitted by the prosecution that petition as framed is not maintainable either in law or on the point of facts. It has been further submitted that from perusal of the fard-e-beyan as well as para No. -01,02, 05, 07, 08, 15, 18 and 30 of the case dairy it transpires that the accused has committed murder of Sonali Bindi daughter of the informant namely Premshila Devi with conspiracy alongwith other accused persons.. Moreover, there are sufficient materials on record for framing of charge against the accused Ramishwar Sah u/s 302, 120B/, 34 of the I.P.C. Accordingly it has been submitted to reject the instant petition.

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While Ld. Counsel for the petitioner has submitted that there is allegation against the petitioner that he has committed murder of Sonali Bindi alongwith his other associates but there is no cogent and reliable evidence on record. Moreover, on alleged date of occurrence i.e. on 06-11-2019 petitioner was in Mumbai. Ld. counsel for the petitioner has further submitted that postmortem report of late Sonali Bindi goes to show that deceased to this case has committed suicide and only due to land dispute petitioner has been implicated in this case as such the petitioner deserves to be discharged from this case.

While otherside Id. A.P.P. appearing for the state has submitted that Premshila Devi has clearly stated in her ferd-e-beyan that accused-petitioner and other accused named in F.I.R. altogether committed the murder of her daughter namely Sonali Bindi and other witnesses of the case diary have also supported the case of prosecution and only on the plea of alibi accused-petitioner can not be exonerated from this case because the plea of alibi is matter of trial. He has further submitted that from the perusal of the death inquest report it is evident that legs of the deceased to this case was in the hanging state and same were touching the ground so on such circumstance suicide by hanging is not possible. Real fact is that Sonali Bindi was done to death by accused-petitioner by hatching up the conspiracy with other accused persons named in F.I.R. but with view to save theirs skin accused-petitioner and other accused named in F.I.R. after committing strangulation to the Sonali Bindi they hanged to her dead body with view to give the colour of suicidal death. He has further submitted that from perusal of the case record it is quite clear that there are ample material on record to frame the charge against the present petitioner u/s 302,/120B,/34 of the I.P.C.. Accordingly it has been prayed to reject the instant petition filed on behalf of accused-petitioner.

Heard the both parties at length and perused the entire case record. From perusal of case record it is evident that on the basis of fard-e-beyan of informant namely Premshila Devi instant case was lodged against the petitioner and his other associates. Further in her fard-e-beyan Premshila Devi has clearly stated that earlier to this occurrence her daughter Sonali Bindi told to her on mobile that present petitioner and other accused named in F.I.R. are making plan to commit her murder and they may commit her murder and again she requested to her to return back home from Delhi. So she assured her daughter that it is not easy to commit murder. But later on when she called on the mobile of her daughter then nobody received the call. Then she returned from Delhi then her nephew told to her that her daughter

has been done to death and her dead-body is laying in the Sadar hospital Hajipur and she went to the Sadar hospital Hajipur then she saw that the dead-body of her daughter is laying in the said hospital. Further, informant has firmly stated in her fard-e-beyan that all named accused have committed the murder of her daughter with view to grab her land. Further in her re-statement as recorded in para No.-05 of the case dairy she has fully supported the case of prosecution and other witnesses of the case dairy have also supported the case of prosecution. Though from perusal of the postmortem report of deceased to this case namely Sonali Bindi it is evident that in postmortem report it has been opined by the team of doctors as “Death in my opinion is due to asphyxial which is due to hanging by flexible ligature like Dupatta. Suicidal hanging” But from perusal of the extract of the death inquest report as written in the para No-02 of the case diary it is evident that in death inquest report it has been reported that legs of deceased to this case namely Sonali Bindi were touching the ground while it is impossible for a person to die by suicide if her legs touche the ground. Further death inquest report goes to show that bangles of the deceased were found near the dead body in broken condition which prima facie goes to show that some criminal force was used against the Sonali Bindi before her death. Moreover the material available on record undoubtedly goes to show that Sonali Bindi faced unnatural death and whether Sonali Bindi had died due to homicidal death or suicidal death is a question of fact and it is a matter of evidence. Further, Id. Counsel for the defence has submitted that there is documentary proof that accused-petitioner lived in Mumbai at the time of occurrence. But it is well settled law that plea of alibi is the matter of trial and same can not be decided at this stage. While from perusal of case record it is evident that after due investigation police submitted charge-sheet u/s 302, 120B, /34 of the I.P.C. against present petitioner and having consideration the materials available on record Id. C.J.M. Vaishali at Hajipur took the cognizance of this case u/s 302, 120B, 34 of the I.P.C. against present petitioner. Moreover, in the light of discussion as made above as well as having consideration material available on record this court is of this definite view that there is sufficient material on record to frame the charge u/s 302, 120B, /34 of the I.P.C. against accused-petitioner namely Rameshwar Sah @ Ramishwar Sah. So having the consideration above facts as well as submission made by Id. A.P.P. for the state, I am not inclined to discharge the aforesaid accused-petitioner namely Rameshwar Sah @ Ramishwar Sah from this case. So the petition U/S 227 of the Cr.P.C. filed on the behalf of the aforesaid petitioner is hereby rejected and

accordingly its rejoinder dated 25-02-2022 filed on behalf of prosecution is hereby disposed of. Put up the case record on 08-04-2022 for framing of charge. Accused is hereby directed to remain physically present before the court on fixed date.

(Dictated & Corrected by me)

(Asutosh Rai)

A.D.J.- XI, Vashali at Hajipur

25-03-2022

(Signed by me)

(Asutosh Rai)

A.D.J.-XI, Vashali at Hajipur

25-03-2022