

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6355 of 2015

Arising Out of PS.Case No. -90 Year- 2011 Thana -PATORI District- SAMASTIPUR

=====

1. Lakshman Rai Son of Sri Bali Rai @ Ram Bali Rai, Resident of village-
Dumari, Police Station- Patory, District- Samastipur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Kanhaiya Pd. Singh, Sr. Advocate
Mr. Birendra Kumar Singh, Advocate

For the Opposite Party/s Mr. R.P.S. Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

03/ 08.04.2015 Supplementary affidavit is filed on behalf of the petitioner.

Heard learned counsel for the petitioner as well as learned
Addl. Public Prosecutor for the State.

Earlier prayer for bail of the petitioner was twice rejected by
this court but submission on behalf of the petitioner is that petitioner is
in jail custody since 3.4.2012 and, as a matter of fact, at the time of
rejection of bail of the petitioner certain facts could not be placed
before this court. It is pointed out that according to the prosecution
case itself, petitioner gave iron rod blow on the head of the deceased-
Kuldeep Rai but the post mortem report of the deceased does not
corroborate the aforesaid allegation because incised wounds were
found on the head of deceased. It is further contended on behalf of the
petitioner that in course of trial, son of deceased and one other witness
of the prosecution stated that co-accused Bali Rai had assaulted
deceased with **farsa** and, therefore, injuries found on the head of

deceased are attributed to co-accused Bali Rai, who has already been granted privilege of anticipatory bail by a coordinate bench of this court.

From perusal of post mortem report of deceased, I find that three injuries were found on the deceased. Out of the aforesaid three injuries, one injury was found on parietal region of the head. Second injury was found on forehead and third injury was found on right thigh. Injuries on parietal region of head and forehead of deceased were found to be the incised wounds caused by sharp cutting weapon whereas injury found on right thigh of deceased was bruise said to be caused by hard and blunt substance and, therefore, there appears some substance in the arguments of learned counsel for the petitioner as the injuries found on the head of deceased do not corroborate the allegation levelled against the petitioner.

Moreover, petitioner is in jail custody since long and up till now, only three prosecution witnesses could be examined.

Considering the aforesaid facts and circumstances as well as submissions of the parties, let the petitioner be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge II, Samastipur in Sessions trial no. 347/2012 arising out of Patory P.S. Case no. 90/2011.

The findings/ observations given in this order shall be treated only for the purpose of consideration of bail.

shahid
U T

(Hemant Kumar Srivastava,J)