

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48922 of 2014

Arising Out of PS.Case No. -446 Year- 2013 Thana -RUNISAIDPUR District- SITAMARHI

Md. Junaid @ Junaid son of Md. Serajul Ansari resident of Village - Kowahi, P.S. - Runnisaidpur, District - Sitamarhi.

..... Petitioner/s

Versus

The State of Bihar.

..... Opposite Party/s

With

Criminal Miscellaneous No.13878 of 2015

Arising Out of PS.Case No. -446 Year- 2013 Thana -RUNISAIDPUR District- SITAMARHI

Premlal Rai S/o Sri Rambriksha Rai Resident of Village- Mahesha Farakpur, P.S- Runnisaidpur, District- Sitamarhi.

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

Appearance :

(In Cr.Misc. No.48922 of 2014)

For the Petitioner/s : Mr. Shankar Kumar

For the Opposite Party/s : Mr. Braj Kishore Prasad(App)

(In Cr.Misc. No.13878 of 2015)

For the Petitioner/s : Mr. Girish Pandey

For the Opposite Party/s : Mr. H.A. Khan (App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

04/ 01-09-2015

Heard learned counsels for the petitioners

and the State.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 302 and 379/34 of the Indian Penal Code.



The prosecution case is that the son of the informant, namely, Sunny Kumar initially went out of the house at 7.00 P.M. but he could not get transportation hence while returning at 10.00 -11.00 P.M. called his maternal uncle Birendra Singh. It is further alleged that maternal uncle found that the son of the informant being tied by petitioner Premlal Rai and his associate Md. Asraf and assaulted the son of the informant near his scrap shop. The maternal uncle of the victim Birendra Singh getting terrified escaped from the scene but thereafter he returned to P.O. along with Dinesh Singh but found the victim, the son of the informant in seriously injured condition. He also took away the gold chain worth Rs.5,000/- and mobile of the victim.

It is submitted by learned counsel for the petitioner Md. Junaid that he was not named in the FIR. His name sprang up after one and half months of the registration of the FIR when Chaukidar suggested that petitioner Junaid was also one of the assailants of the victim. A statement has been made in paragraph 3 of the petition that petitioner Junaid has no criminal antecedent.

It is submitted by learned counsel for petitioner Premlal Rai that the victim committed theft in the



scrap shop of the petitioner for which the wife of the petitioner lodged Runnisaidpur P.S. Case No. 447 of 2013 levelling accusation under Sections 461 and 379 of the IPC when the son of the informant was caught at the spot then mob assaulted him, thereafter he was taken to Primary Health Centre, Runnisaidpur and from there he was referred to S.K.M.C.H., Muzaffapur, but on the way he died. The victim and his maternal uncle have criminal antecedent as Meenapur P.S. Case No. 276 of 2013 with accusation under Section 379/34 of the IPC was registered against them on 07.09.2013. The presence of the maternal uncle of the victim appears to be doubtful as there was nothing on the record to suggest that the victim called his maternal uncle through mobile and he is running from the scene suggests that Birendra Singh again reached to the occurrence and admittedly the informant is not the eye witness to the occurrence. The informant in her house which is 7 km. away from the place of occurrence, hence, Birendra Singh has been set up to be an eye witness to the occurrence.

It is submitted by learned counsel for the State after going through the case diary that the witnesses have suggested that petitioner Premlal Rai tied the victim due to theft committed in his shop and assault was made by several persons

including this petitioner and the name of other petitioner Md. Junaid transpired in statement of Chaukidar who suggested that he also participated in the commission of the offence.

Considering the nature of accusation against petitioner Premlal Rai, let the learned court below consider the prayer for regular bail of the petitioner, if he surrenders before the learned court below within a period of six weeks from today keeping in view of the fact that the victim was assaulted by the mob when he was caught red handed while committing theft having no criminal antecedent and the presence of the victim near the shop of petitioner Premlal Rai which is 7 km. away from his house suggests that the victim was caught red handed while committing theft in the scrap shop of petitioner Premlal Rai.

Considering the fact that name of petitioner Md. Junaid @ Junaid transpired much after registration of the case and a statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent, let petitioner Md. Junaid @ Junaid be released on anticipatory bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of

the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Runnisaidpur P.S. Case No. 446 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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