

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38651 of 2015

Arising Out of PS.Case No. -76 Year- 2014 Thana -THAKRAHA District- WEST
CHAMPARAN(BETTIAH)

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Mangal Musahar @ Mangal Mushar, S/o Indar Musahar, resident of
Village- Jamuniya , P.S Thakaraha (Bhitaha), District West Champaran.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Vijay Kr Singh No. 1, Advocate.

For the Opposite Party : Mr. N.N. Tiwari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 08-10-2015 Heard learned counsel for the petitioner and learned
counsel for the State

The petitioner is languishing in custody since 19.05.2014
in connection with Sessions Trial No. 145/2015, arising out of
Thakaraha (Bhitaha) P.S. Case No. 76 of 2014 for the offences
instituted under Section 302 of the IPC.

The prosecution story, in brief, is that on 12.5.2014 at
about 8 p.m. when the deceased Tilakdhari Mushar had gone at the
Kirana Shop of Renu Kushwaha to purchase rice, then, an
altercation took place in between informant's husband Tilakdhari
Mushar and this accused-petitioner on the point of committing
theft of *Tari* of the deceased by above accused/petitioner.

Thereafter, this accused-petitioner committed murderous assault on the deceased by means of *Fasuli* (sharp edged weapon meant for extraction of *Tari*) causing fatal injury on the neck of the deceased. Deceased succumbed to his neck injury allegedly caused by this accused petitioner by means of sharp edged weapon.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. The petitioner is in custody since 19.05.2014 and the charge sheet has been submitted in the case. There is no allegation of tampering with the evidence against the petitioner. As per prosecution case, the alleged occurrence is said to have taken place in a spur of moment. There was no intention to commit the murder of the deceased. Hence, no offence under Section 302 of the IPC is made out. At best, Section 304 Part-II IPC is made out.

On behalf of the State it has been submitted that the petitioner is named in the F.I.R. and there is direct allegation against him for assaulting the deceased.

Considering the aforesaid facts and circumstances, I am not inclined to grant bail to the petitioner. The same is rejected in Sessions Trial No. 145/2015, arising out of Thakaraha (Bhitaha) P.S. Case No. 76/2014, pending in the court of the learned 2nd Additional Sessions Judge, Bagaha, West Champaran. Anyhow,

the Trial Court is directed to take all necessary steps to expedite the trial and conclude the same preferably within a period of six months from the date of receipt/production of copy of this order.

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(Sudhir Singh, J)

