

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43785 of 2015

Arising Out of PS.Case No. -316 Year- 2014 Thana -JOKIHAT District- ARRARIA

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MD. ALI HASSAN @ MD. ALI HASAN Son of Late Rewat, Resident of
Rahika Tola, Matiyari, P.S. - Jokihat, District- Araria.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal

For the Opposite Party/s : Mr. Mustaque Alam (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 16-12-2015

Heard both sides.

The petitioner apprehends his arrest in a case under
Sections 302/34 of the Indian Penal Code.

The informant, father of the deceased, named the
petitioner along with other accused persons and alleged that they
assaulted and killed his daughter Mosrat. Sri N.K. Agrawal,
learned senior counsel for the petitioner, submits that the
petitioner happens to be the maternal uncle of the husband of the
deceased. She is admittedly senior citizen, more than 60 years old.
Of course, the petitioner is named in the F.I.R. but no specific
allegation is made against him. During the course of investigation,
one Nur Hassan and Bahud made their statements in Paras 35 and
36 of the case diary and alleged that while they were going for a
walk, they saw that the petitioner and others were assaulting the



deceased. They informed the father of the deceased. It is further submitted that there is no reason that they kept quite for long time and did not inform the police immediately after the occurrence nor made any attempt to save the victim from being further assaulted or tried to save her life. It is further submitted that the police, after investigation, did not find sufficient material against the petitioner and, accordingly, submitted final form finding the case false against the petitioner but the learned Judicial Magistrate took cognizance. Therefore, the case is fit for grant of anticipatory bail as the petitioner has falsely been implicated in the case. Nur Hasan and Bahud are the close relatives of the deceased.

On the other hand, Sri Pankaj Kumar Sinha, learned counsel for the informant, and learned A.P.P. opposed the prayer for anticipatory bail and submitted that the informant also on being informed named the petitioner in the F.I.R. itself. Of course, he did not make any specific allegation of assault against the petitioner and subsequently the two witnesses Nur Hasan and Bahud made their statements that the petitioner was also one of the accused, who was assaulting the deceased, but the police, without giving any reason, submitted final form. However, the learned court below took cognizance against the petitioner also.

Having regard to the fact that the petitioner is named

in the F.I.R. and during the course of investigation it has come that the petitioner took part in assaulting the deceased, I am not inclined to enlarge the petitioner on anticipatory bail in Jokihat P.S. Case No. 316 of 2014. Accordingly, the same is rejected.

The petitioner, if so advised, may surrender in the court below and make prayer for regular bail. The court below shall consider the prayer for regular bail of the petitioner on its own merit without being prejudiced from this order.

(Prabhat Kumar Jha, J)

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