

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4454 of 2016

Arising Out of PS.Case No. -96 Year- 2015 Thana -SHAKURABAD District- JEHANABAD

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1. Gaurav Kumar @ Gaurab Kumar Son of Sri Shambhu Sharma, Resident of Village - Salempur, Police Station - Shakurabad in the district of Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar

For the Opposite Party/s : Mr. Asha Devi (App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

3 01-03-2016 Heard learned counsel for the petitioner, learned Additional Public Prosecutor for the State and learned counsel, appearing for the informant.

Petitioner is languishing in jail custody in a case registered under Section-302 & other minor sections of the Indian Penal Code.

Petitioner is named in the first information report and the informant claimed that the deceased informed the witness, Chandeshwar Das through his mobile that he was shot by petitioner and after that, the informant along with other villagers went in the house of his uncle and found him lying in injured condition. The deceased was brought to hospital and while, he was



being taken to hospital, the deceased again disclosed the name of assailant. The deceased was declared brought dead by doctors. The informant also claimed that the deceased had disclosed the name of his assailant before the officer-in-charge of concerned police station.

It would appear that the alleged occurrence took place on 06-09-2015 and the first information report was lodged on 07-09-2015 at 11.00 a.m. at PMCH, Patna.

Learned counsel, appearing for the petitioner submits that according to prosecution case itself, none has seen actual killing of the deceased and the witnesses claimed that the deceased disclosed the name of his assailant, not only before the witnesses but also before the officer-in-charge of the concerned police station before institution of the present case. Learned counsel for petitioner refers paragraph-11 of the case diary in which, the I.O. has specifically, mentioned that the deceased was not in a condition to speak, when he reached at the place of occurrence. Furthermore, learned counsel for the petitioner submits that had the deceased been disclosed the name of the assailant to officer-in-charge of concerned police station before institution of the present case, the officer-in-charge would have instituted the case on the statement of the deceased but the officer-in-charge did not do so

and, therefore, the aforesaid fact clearly goes to show that the present case has been loaded on the basis of an afterthought story.

Learned counsel, appearing for informant, vehemently, opposed the prayer for bail, submitting that in course of investigation, several independent witnesses have supported the prosecution story and specifically, stated that the deceased disclosed the name of petitioner before them. The investigation against the petitioner has already been completed and it appears that there was some dispute of tenancy between the petitioner and the deceased.

Considering the above-said facts and circumstances of the case as well as submission of the parties, let the petitioner named above, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with Shakurabad P.S. Case No. 96 of 2015 to the satisfaction of learned Additional Chief Judicial Magistrate-Ist, Jehanabad.

A.K.V./-

(Hemant Kumar Srivastava, J)

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