

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34651 of 2016

Arising Out of PS.Case No. -180 Year- 2015 Thana -SILAO District- NALANDA
(BIHARSHARIFF)

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Kishlay Kumar Son of Ramrup Prasad, resident of village-Silao Bazar, P.S.
Silao, District-Nalanda.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar, Advocate

For the Opposite Party/s : Mr. Nagendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 04-10-2016 Heard learned counsel for the petitioner, the State and

the informant.

The petitioner seeks bail in a case instituted for the
offences under Sections 147, 148, 149, 323, 324, 307 and 302 of
the I.P.C. and Section 27 of the Arms Act.

The prosecution case, in brief, is that the informant
along with Vivek Kumar @ Tato, Lovely Kumar @ Abhay Raj
and Dharmendra Kumar were talking in the lane and at that time
four accused persons named in the F.I.R. including the petitioner
and 3-4 unknown persons came there and started assaulting them
by fists and slaps. Then the petitioner and Sudhir Kumar opened
fire causing firearm injury to one Vivek Kumar @ Tato and
Lovely Kumar @ Abhay Raj respectively and one Dharmendra



Kumar was assaulted by other co-accused by means of knife. All the injured were brought to the Hospital but Vivek Kumar @ Tato and Lovely Kumar @ Abhay Raj succumbed to their injuries, whereas another injured was referred to P.M.C.H. for treatment.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 13.11.2015 and the charge sheet has been submitted in the present case. The petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. Four persons are named in the F.I.R. including the petitioner. The informant is an eye witness. Specific allegation has been attributed against the petitioner and co-accused Sudhir Kumar for firing upon the deceaseds. From perusal of the postmortem report, it is evident that there is no injury upon the deceaseds caused by firearm. The postmortem report does not support the allegations made in the F.I.R. Subsequently in course of investigation in paragraph 26 of the case diary, general and omnibus allegation has been made against the petitioner and the other accused persons for assaulting the deceaseds with knife, sword and picket, which apparently appears to be an afterthought on the part of the prosecution.

On behalf of the State and the learned counsel for the informant, it is submitted that the petitioner is named in the F.I.R.

and there is allegation of assault alleged against him for causing injury upon the deceaseds. The bail of the other co-accused, namely, Sudhir Kumar has been rejected vide Cr.Misc.No.25810 of 2016 vide order dated 22.06.2016.

It has been submitted by the learned counsel for the petitioner that the said application was rejected in absence of the Counsel defending the said co-accused as the same is evident from order dated 22.06.2016. It has further been pointed out that the postmortem report of the deceaseds has not been looked into while rejecting the prayer for bail of co-accused Sudhir Kumar by the co-ordinate Bench of this Court.

Considering the aforesaid facts and circumstances, it is directed that the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge III, Nalanda at Biharsharif in connection with Sessions Trial No.358 of 2016 arising out of Silao P.S. case No.180 of 2015.

(Sudhir Singh, J)

Narendra/-

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