

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49213 of 2015

Arising Out of PS.Case No. -39 Year- 2015 Thana -SARAN GRP CASE District- SARAN

Surya Dayal Singh Son of Ramji Singh resident of village - Gorpa, Police Station - Chauri, District - Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Narbadeshwar Prasad Singh

For the Opposite Party/s : Mr. G.S.Gupta(App)

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

3 01-02-2016 Heard learned counsel for the petitioner, learned counsel for the father of the deceased and learned A.P.P. representing the State.

The petitioner seeks bail in connection with Sonapur Rail P.S. Case No. 39 of 2015 registered for the offences punishable under Section 302 of the Indian Penal Code and Section 27 of the Arms Act.

Allegedly, the petitioner took A.K.M. rifle from the *Hawalदार* for cleaning and when he was cleaning the same it was fired, which hit constable Nitish Kumar, who was on duty, causing his spot death.

Submission is of false implication and that it is not a case under Section 302 IPC rather it is a case of Section 304-A



IPC because it was an accidental death, there was no motive to commit murder of the deceased, there was no enmity, the deceased Nitish Kumar was good friend of the petitioner, after completing investigation, chargesheet has been submitted under Section 304 IPC and, as such, the petitioner who is suffering in custody since 24.07.2015, deserves sympathetic consideration to which the learned A.P.P. duly assisted by learned counsel for father of the deceased opposes by submitting that on the person of the deceased five injuries have been found and out of those injuries, one injury is lacerated wound up to bone-deep on left side of parietal region of the skull which is not explained.

In the facts and circumstances stated above, considering that chargesheet has been submitted under Section 304 IPC and Section 27 of the Arms Act and, as such, considering the detention of the petitioner, now he is directed to be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Learned Railway Judicial Magistrate, Sonapur, Saran arising out of Sonapur Rail P.S. Case No. 39 of 2015 subject to the conditions that one of the bailors must be near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioner shall remain present on each

and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

(Jitendra Mohan Sharma, J)

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