

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28814 of 2016

Arising Out of PS.Case No. -225 Year- 2015 Thana -RAJNAGAR District- MADHUBANI

=====

1. MD. AKHATAR @ MD.AKHTAR Son of Ashilam @ Md. Aslim
resident of village - Gaus Nagar, P.S. - Raj Nagar, District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Opposite Party/s Mr. Md. Arif

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

05/ 03.10.2016 Heard learned counsel for the petitioner as well as learned
Addl. Public Prosecutor for the State assisted by learned counsel for
the informant.

Petitioner seeks bail in a case registered under section 307
and other minor sections of the Indian Penal Code.

Originally, six persons including the petitioner were made
accused in this case but subsequently, some other persons were also
added as accused in the present case. It is alleged that all the named
accused mercilessly assaulted the deceased by means of lathi, iron rod,
sword as a result whereof deceased died. The occurrence is said to
have taken place on 16.10.2015 whereas written report was given on
26.10.2015, on the basis of which formal FIR was drawn which was
put up before the Chief Judicial Magistrate on 7.11.2015. However,
fardbeyan of the informant was recorded at PMCH, Patna on
8.11.2015 and in course of investigation, I.O drew up fardbeyan of the

informant at para 30 of the case diary.

Learned counsel for the petitioner submitted that there is contradiction in written report as well as in fardbeyan of the informant regarding manner of alleged occurrence. It is further submitted that, as a matter of fact, deceased met an accident but the informant lodged this case against the petitioner and others on account of enmity. Learned counsel further submitted that co- accused Md Jilani has already been granted the privilege of bail by a coordinate bench of this court vide order dated 31.08.2016 passed in Cr. Misc. no. 21457/2016.

On the other hand, learned counsel appearing for the informant drew my attention towards para 16 of the case diary and submitted that one eye-witness, specifically, claimed that it was the petitioner who gave repeated iron rod blows causing head injuries to the deceased. The post mortem report of the deceased goes to show that only one injury was found on the head and rest injuries were found on the leg of the deceased. It is further submitted on behalf of the informant that the petitioner does have criminal antecedent of four cases.

Investigation against the petitioner has already been completed and it appears that there is general and omnibus allegation against all accused persons and having more or less similar allegation, co- accused Md Jilani has already been granted the privilege of bail and, therefore, to maintain the parity of justice, let the petitioner be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of Sri Vikash Jha, Judicial Magistrate, Ist Class, Madhubani in Raj Nagar P.S. Case no.



225/2015.

shahid

(Hemant Kumar Srivastava,J)

