

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2595 of 2016

Arising Out of PS.Case No. -65 Year- 2011 Thana -KEOTI District- DARBHANGA

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Md. Asfani @ Md. Asfahani Son of Late Zahir,

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Kamran, Advocate

For the Opposite Party/s : Mr. Ram Chandra Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-01-2016

Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 328 and 302/34 of the Indian Penal Code.

Prosecution case is that the informant saw his brother Md Illiyas taking liquor in the company of seven FIR named accused persons in an orchard and, thereafter, the informant came to his house and after two hours the informant heard noise that his brother is senseless. When he went to the orchard, he found that the accused persons escaped from the scene. Hence, the informant has suspicion that some poisonous substance through liquor was administered to his brother.

It is submitted by learned counsel for the petitioner that the prosecution's case appears to be solely based on suspicion as

the post-mortem does not reflect any external and internal injury even resisting injury. The Viscera was preserved. The FSL suggests the presence of pesticide but the post-mortem report does not suggest the presence of Alcohol in the stomach of the victim which suggests that either the victim did not see his brother consuming liquor in company of the petitioner and other accused persons or has given false version by getting the FIR registered. A statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

Considering the suspicion nature of accusation being not corroborated with the medical and FSL opinion, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Darbhanga in connection with Keoti P.S. Case No.65/2011, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

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