

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15967 of 2016

Arising Out of PS.Case No. -48 Year- 2015 Thana -KIHIRI MORE District- PATNA

1. Bidya Yadav son of Late Rama Yadav, Resident of village- Anchal Tola,
P.S.- Khiri More, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Advocate
Mr. Laxmi Kant Sharma, Advocate
Mr. Rajesh Kumar, Advocate
For the Opposite Party/s : Mr. Murli Dhar (App)

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 26-05-2016 Heard learned counsel for the petitioner and the learned
A.P.P. for the State.

The petitioner is languishing in jail custody since
10.09.2015 in a case registered for offences punishable under
Sections 302/34 of the I.P.C. in connection with Khiri More
P.S.Case No. 48 of 2015.

The prosecution case as lodged on the basis of written
report by the informant, Sunita Devi before the S.H.O., Khiri
More Police Station, Patna is that on 27.07.2015 accused persons
including the petitioner came variously armed with deadly
weapons and assaulted the deceased, Baban Yadav with pistol by
which Baban Yadav (deceased) died.

It has been submitted by the learned counsel for the

petitioner that apart from family members, none of the independent witnesses have supported the prosecution case and the petitioner has no criminal antecedent, as is evident from para-3 of this application.

Further it is submitted by the learned counsel for the petitioner that there is no motive behind the alleged occurrence and no independent witness has seen the occurrence. He further submits that the statement of the son of the informant made under Section 164 of the Cr. P.C., who is minor and student of class VI standard, can not be believed. He further submits that the statement of the informant and her son was taken after four months of the alleged date of occurrence, i.e. on 02.11.2015.

However, learned A.P.P. for the State submits that the explanation of the informant's son, who was sleeping along with the deceased and another son sleeping by the side of deceased had seen the occurrence and the post mortem report also corroborates the prosecution case.

Considering the nature of case, I am not inclined to grant privilege of bail to the petitioner at this stage. It is, accordingly, rejected.

(Nilu Agrawal, J)

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