

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36003 of 2016

Arising Out of PS.Case No. -264 Year- 2016 Thana -MUZAFFARPUR TOWN District-
MUZAFFARPUR

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1. Md. Abid Son of Md. Asif Resident of Mohalla- Sutapatti Saraiyaganj,
P.S.- Town, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 25-10-2016 Heard learned counsel for the petitioner and the State.

The petitioner is in custody in a case registered under
Section 302/34 of the Indian Penal Code.

The prosecution story, in brief, is that when the
informant was bringing the deceased for his production in the court
of Chief Judicial Magistrate, Muzaffarpur, two unknown persons
fired thrice upon the deceased, due to which he succumbed to the
injury.

It has been submitted on behalf of the petitioner that
the petitioner is in custody since 19.05.2016. Charge sheet has
been submitted in this case. There is no allegation of tampering
with the witnesses alleged against the petitioner. The petitioner is
not named in the FIR. His name has figured for the first time in



para 17 of the case diary, where the family members of the deceased have made a general and omnibus allegation against the petitioner. Subsequently, in paras 46 to 51 of the case diary, it has been stated that they have themselves claimed to be the eye witnesses to the alleged occurrence and have made specific allegation against co-accused Md. Shamshad, who is said to have fired upon the deceased. The petitioner was alleged to have been driving the morotcycle on which said Shamshad was pillon rider. If the said family members were the eye witnesses they ought to have disclosed the said fact at the time of institution of the FIR or in para 17 of the case diary but later on they have tried to develop the prosecution case as both the parties are in litigating terms prior to the institution of the case. Other co-accused has been granted bail by this Court vide Cr. Misc. No. 34203 of 2016.

On behalf of the State, it is submitted that no overt act is alleged against the petitioner. The petitioner is not named in the FIR. At best he is a member of unlawful assembly.

On behalf of the informant, it is submitted that the petitioner has actively participated in the alleged occurrence and family members of the deceased have supported his participation in the present case.

Considering the aforesaid facts and circumstances

of the case, let, above named petitioner, 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 C.J.M., Muzaffarpur in connection with Muzaffarpur Town P.S.Case No. 264 of 2016.

(Sudhir Singh, J)

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