

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28134 of 2016

Arising Out of PS.Case No. -88 Year- 2016 Thana -KADWA District- KATIHAR

Nemul Haque @ Nayeemul Haque Son of Late Lal Mohammad Resident of
village - Raniganj, P.S. Kadwa, District - Katihar

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate.
Mr. Md. Musowir, Advocate.
For the Opposite Party : Mr. Sakir Ahmad, APP.
For the Informant : Mr. Krishna Pd. Singh, Sr. Advocate.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 18-10-2016 Heard Mr. N.K. Agrawal, learned senior counsel for the
petitioner, Mr. Krishna Pd. Singh, learned senior counsel for the
informant and learned APP for the State.

The petitioner apprehends his arrest in Kadwa P.S. Case
No. 88 of 2016 registered for the offences punishable under
Sections 302 and 34 of the Indian Penal Code.

The informant, brother of the deceased Naresh Kewat,
alleged that when his brother was returning to his house after
seeing the field Nemul Haque @ Nayeemul Haque stopped him in
front of his house and began to quarrel. Some persons came out
from the garage of Nemul Haque @ Nayeemul Haque. Nemul
Haque @ Nayeemul Haque assaulted his brother with cricket bat



and others assaulted him with iron rod. The informant after having received the information went to the place of occurrence and took his brother for treatment but on way to hospital his brother died. The informant further stated that the dead body of his brother was kept in front of the house of the petitioner. The police came and recovered the blood stained cricket bat from the house of the petitioner.

Shri N.K. Agrawal, learned senior counsel for the petitioner submits that the petitioner is alleged to have assaulted with bat, but in fact, Naresh Kewat met with an accident in front of the house of the petitioner and he died. Many persons assembled at the place of occurrence with the dead body and wife of the petitioner lodged Kadwa P.S. Case No. 89 of 2016 stating therein that on account of accident Naresh Kewat died, but the villagers ransacked her house and looted away different articles. It is further submitted that the B.D.O. Kadwa lodged Kadwa P.S. Case No. 90 of 2016 in which he stated that he got information from the Collector that many persons had illegally assembled near the house of Nemul Haque @ Nayeemul Haque and they ransacked the house of the petitioner. It is further submitted that the petitioner did not assault the deceased and there is no eye witness of the occurrence.

On the other hand, learned counsel for the informant as well as learned APP for the State vehemently opposed the prayer for anticipatory bail of the petitioner.

It appears from the statement of the informant that the occurrence took place at 12:00 in the day on 14.05.2016. The informant on information went to the place of occurrence and took his brother for treatment when his brother died he brought the dead body and kept the same in front of the house of the petitioner. The informant further alleged that the deceased, himself, disclosed about the occurrence while he was being taken to hospital for treatment. The police after lodging the case made search and from perusal of the paragraph-8 of the case diary, it appears that the blood stained cricket bat was recovered from the house of the petitioner. Two FIR i.e. Kadwa P.S. Case No. 89 of 2016 and Kadwa P.S. Case No. 90 of 2016 were registered when the dead body of the deceased was kept in front of the house of the petitioner and many persons assembled there, they made hue and cry for that the wife of the petitioner and the B.D.O. respectively lodged the case but from perusal of the records, it appears that there is very specific allegation that it was the petitioner who assaulted the deceased with cricket bat on his head and consequently the deceased died.

Considering the facts aforesaid, I am not inclined to
enlarge the petitioner above named on anticipatory bail.
Accordingly, the same is rejected.

(Prabhat Kumar Jha, J.)

KKSINHA/-

U		T	
---	--	---	--