

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.192 of 2016

Arising Out of PS.Case No. -45 Year- 2015 Thana -KAHALGAON District- BHAGALPUR

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Pandav Mandal @ Pandav Kumar, Son of Sikandar Mandal resident of
village- Milki Baisa, Police Station- Kahalgoan, District- Bhagalpur.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Sanjay Kumar, Advocate

For the State : Mr. Sadanand Paswan (Spl.P.P. S.C. & S.C. Act)

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 17-02-2016

Heard the parties.

Petitioner apprehends his arrest in a case filed
under Sections 302/34 of the Indian Penal Code and Section
3(1)(x) of S.C. and S.T. Act.

As per the allegation the deceased along with his
brother was working in the brick-kiln. His brother returned home
and the deceased told him that he will come later on but he did not
return in the night then every body thought that he must have been
watching television at some place but when he did not return even
in the morning then inquiry was made by the informant who
happens to be the father of the deceased and on the basis of
information given by the Chaukidar he reached the place in front
of shop of the Sikandar Mandal and his poultry farm where the
dead body of the victim was found. It has been alleged that his son

had visited the shop of the father of the petitioner for purchasing certain items but they tied him with a tree and assaulted due to which he succumbed to the injury.

Learned counsel for the petitioner submits that admittedly the informant is not an eye-witness. He has not disclosed as to how it came to his knowledge that his son went to the shop of the father of the petitioner for purchasing certain articles where he was tied in a tree and was beaten. In his further statement recorded in course of investigation, he had supported the allegation but has added that certain persons have disclosed that about 10-12 days back some of the poultry birds of the Sikandar Mandal, i.e., the father of the petitioner were stolen and that was the cause due to which, after 10-12 days, the accused persons, in a manner mentioned in the first information report, brutally beaten the deceased. However, learned counsel for the petitioner has contended that nothing could be collected during the course of investigation connecting the petitioner with the said occurrence. Even if it appears that the victim died due to the injuries caused by the hard and blunt substance on all over the body that does not mean that the petitioner was involved in assaulting him unless there is some material except suspicion is available on record. The informant has not disclosed in the first information report as to who had informed him regarding occurrence. In the Fardbeyan, he has merely said that he was secretly informed by somebody

regarding the occurrence but there is no material at all except the suspicion that due to some occurrence of theft of poultry items of father of the petitioner, the victim might have been assaulted by the entire family of the petitioner. Even subsequently, in the further statement, even on the basis of suspicion, it has been stated that Sikandar Mandal, Niro Mandal and other co-accused persons have assaulted but there is no specific allegation against the petitioner of any assault and even on suspicion the allegation is general and omnibus in nature. It is further contended that, as nothing having been done in public view, the ingredients of Section 3(i)(x) of S.C. and S.T. Act would not be attracted.

Having regards to the facts and circumstances of the case, in the event of arrest/surrender within a period of six weeks from today in Kahalgoan P.S. Case No.45/15, the above named petitioner, Pandav Mandal @ Pandav Kumar shall be released on bail on furnishing bail bond of Rs.10,000 (Ten Thousand Rupees) with two sureties of the like amount each to the satisfaction of Sri Anwar Shamim, Judicial Magistrate Ist Class, Bhagalpur subject to the conditions as laid down under sub-section(2) of Section 438 of the Code of Criminal Procedure.

Sanjay-II/-

(Dr. Ravi Ranjan, J)

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