

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50606 of 2013

Arising Out of PS.Case No. -319 Year- 2012 Thana -RAMNAGAR District-
WESTCHAMPARAN(BETTIAH)

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Babulal Gaddi S/O Bagad Gaddi Resident Of Village- Badawa Lagunaha,
P.S.- Chautarwa, District- West Champaran.

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey

For the Opposite Party/s : Mr. Anil Kumar(App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

11/ 18.01.2017

Heard learned counsels for the petitioner and

the State.

The petitioner has renewed his prayer for bail since he is languishing in custody from 01.03.2013 in a case registered for the offences punishable under Sections 307, 323, 337, 341, 504/34 of the Indian Penal Code. Later on, Section 302 of the I.P.C. was also added.

It is specifically alleged in the First Information Report that on the order of co-accused Akhtar Mian, petitioner Babulal Gaddi, Madina Khatton and Chekhur Gaddi attacked on the Yogendra Gaddi. It is specifically alleged that petitioner assaulted with iron rod on the head of Yogendra Gaddi



as a result he fell down when the informant tried to rescue Yogendra Gaddi then he was assaulted by Chekhur Gaddi when the son of the informant namely, Tuntun Gaddi and Madan Gaddi came to rescue then they were also assaulted.

It is submitted by learned senior counsel for the petitioner that altogether three witnesses have been examined so far during trial when Madan Gaddi, son of the victim Yogendra Gaddi, has been examined as P.W. 1 and stated that Babulal Gaddi, Chekhur Gaddi, Madina Khatton assaulted his father with lathi and iron rod. The petitioner was armed with iron rod, but it has been alleged that Akhtar Mian assaulted with lathi on the back of the head of his father. Similar is the evidence of Kismati Khattoon, daughter-in-law of the victim, P.W. 2 who has stated that on the order of Akhtar petitioner Babulal, Madian and Chekhur assaulted with lathi and iron rod but Akhtar assaulted on the head of her father-in-law. P.W. 3, Musafir Gaddi has stated specifically in paragraph 5 of his deposition that Akhtar assaulted with iron rod as a result Yogendra died. The post-mortem report reflects only one external injury on the head.

The report of learned Additional Sessions Judge-II, Bagaha, West Champaran dated 30.11.2016 reflects that after evidence of three prosecution witnesses, Akhtar Mian has



been summoned in exercise of the jurisdiction under Section 319 of the Cr.P.C. Hence, now the trial has to be conducted de novo. In the circumstances, it does not appear that the trial is likely to be concluded in near future.

Considering the fact that the petitioner is in custody since about four years, the inconsistency with regard to the accusation against the petitioner levelled in the First Information Report vis-a-vis the evidence of the three prosecution witnesses examined so far, let the above named petitioner, be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Bagaha, West Champaran in connection with Sessions Trial No. 787 of 2013 arising out of Ramnagar P.S. Case No. 319 of 2012.

The learned trial court will be at liberty to cancel the bail bonds of the petitioner, if he defaults for two consecutive occasions.

(Dinesh Kumar Singh, J)

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