

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37119 of 2017

Arising Out of PS.Case No. -170 Year- 2016 Thana -IMAMGANJ District- GAYA

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1. Vikash Thathera, S/o Hira Lal Thathera, R/o Village Babhandih, P.S.-
Immaganj, Dist.- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Advocate

For the Opposite Party/s : Mr. Upendra Kumar, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

5 06-09-2017 Heard learned counsel for the petitioner and the

learned A.P.P. for the State.

The petitioner is languishing in judicial custody
since 28.06.2017 in connection with Immaganj P.S.Case No. 170
of 2016 registered for offences punishable under Sections 448,
342,324, 326, 307, 302/34 of the Indian Penal Code.

The prosecution case as lodged by the informant
is that while his Aunt, Kamla Devi was sleeping in her house, at
about 12 P.M. in the night, two unknown persons came and
stabbed her thereafter she was brought to the Primary Health
Centre from where she was referred to AN.M.C.H., Gaya for
better treatment where she succumbed to the injury.

It has been submitted by the learned counsel for



the petitioner that initially a case under Section 307 of the Indian Penal Code was lodged and that the injured succumbed to the injury, Section 302 of the Indian Penal Code was later on added. He submits that the petitioners are not named in the F.I.R. and it is only on the basis of the statement of the victim lady under Section 161 of the Cr.P.C. before the police that the name of the petitioner has surfaced. He submits that in her statement under Section 161 of the Cr.P.C. she has made specific allegation against the other co-accused namely, Ajay Thathera , who is said to have stabbed her on the abdomen. He submits that her statement under Section 164 of the Cr.P.C. is vague as she has not stated as to who had inflicted the knife blow on her abdomen. He submits that the petitioner has no criminal history, are next door neighbours and on inimical terms, hence he has been falsely implicated. It is further submitted that the statement of the injured lady was recorded after more than 51 days of the occurrence.

However, learned A.P.P. for the State opposes the prayer for bail stating therein that the petitioner along with other accused had come to steal money and the petitioner was the order giver as per statement of the victim lady under Section 164



Cr.P.C.

Considering the facts and circumstances and materials on record, I am not inclined to grant privilege of bail to the petitioner at the stage in connection with Imamganj P.S.Case No. 170 of 2016 pending in the Court of learned Sub Divisional Judicial Magistrate, Sherghati.

The bail application is accordingly, rejected.

(Nilu Agrawal, J)

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