

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46094 of 2017

Arising Out of PS.Case No. -7 Year- 2017 Thana -DHANGAI District- BHOJPUR

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1. Awadhesh Mishra Son of Late Sheo Prakash Mishra, resident of Village-Dalpur, P.S.- Dhangai, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha

For the Opposite Party/s : Mr. Damodar Prasad Tiwary

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 01-11-2017 Heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State.

Petitioner is languishing in judicial custody since 14.02.2017 in connection with Dhangai P.S. Case No. 07 of 2017 for offences punishable under Sections 302, 120-B/34 of the Indian Penal Code.

The prosecution case, as lodged by the informant, is that while his younger brother Md. Saddam was going to his sister's house, he was beaten by the petitioner and nine other accused persons at the door of Ramji Mishra, who later on succumbed to the injuries.

It has been submitted by the learned counsel for the



petitioner that he is innocent, as many as ten persons are named in the First Information Report to have indulged in beating or assaulting the deceased causing injuries on the body of the deceased in which some of them are bruises only. He submits that one of the co-accused Lalan Pathak is dead since last 15-20 years and the petitioner himself is an old man of 70-80 years. He further submits that no motive has been assigned for the said occurrence and that charges have been framed on 05.08.2017 against the petitioner and others. It is submitted that the informant is not an eye-witness to the occurrence and it is only on hearsay that the petitioner has been made accused.

However, learned counsel appearing for the informant and learned APP for the State vehemently oppose the prayer for bail stating therein that it was a cold-blooded murder of the informant's younger brother by the petitioner and other accused persons and the post mortem report also suggests that the death occurred due to blood loss and the injuries on the vital organ of the deceased.

Earlier the petitioner has moved this Court for grant of bail in Cr. Misc. No. 37038 of 2017, which was rejected on 09.08.2017.



Considering the facts and circumstances and the materials on record, let petitioner, above named, be enlarged on bail on completion of one year in custody on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur at Ara, in connection with Dhangai P.S. Case No. 07/2017, subject to the conditions that :

- (i) Both the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating their relationship with the petitioner.
- (ii) Petitioner will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.
- (iii) It is also made clear that the age of the petitioner be verified by the learned court below before releasing him on bail to be of 70-80 years and then only he be released on bail.

Rajesh/-

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(Nilu Agrawal, J)

