

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22365 of 2017

Arising Out of PS.Case No. -243 Year- 2016 Thana -MANER District- PATNA

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1. Mohan Kumar @ Mohan Kumar Mahto @ Mohan Mahto Son of
Randhir Kumar Mahto @ Randhir Mahto @ Randhir Kumar @ Randhir
Kumar Verma, Resident of Village- Gyaspur @ Madhopur, Police
Station- Maner, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Girish Chandra Sharma, Advocate

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 14-07-2017 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is apprehending his arrest in a case
registered for the offences punishable under Sections 302/379/34
of the Indian Penal Code.

For old dispute the occurrence of free-fight took
place wherein both sides caused injury to the opponent and case
and counter case was lodged. So far present F.I.R. is concerned,
allegation is that three persons including the petitioner assaulted
with lathi, danda and iron rod causing injury to Bhola Mahto as a
result whereof Bhola Mahto died during the course of treatment.

Submission of the learned counsel for the petitioner is



that the allegation is general and omnibus. Though the prosecution witnesses have supported the allegation of commission of assault by the petitioners, the post mortem report would reveal that no external injury was found on the head by the doctor and head injury was cause of death. Therefore, it is evident that deceased might have died due to fall on some hard substance during the course of occurrence. Moreover, there is no reason to send three persons to jail for having general allegation of commission of assault not even regarding part of the body which was injured.

Learned counsel for the informant opposed the prayer on the ground that co-accused Dharmbir Mahto has been refused regular bail by a coordinate Bench of this Court considering the entire facts and circumstances of the case.

Considering the fact that there is no specific allegation against any of the petitioner of commission of injury at the vital part of the body of the informant. The post mortem report does not reveal that the doctor found any external injury on the head; rather injury was found on nasal area and on the chest which would not be the cause of death according to opinion of the doctor.

Therefore, in my view, this is not a case wherein the petitioner should be compelled to go to jail. Hence, let the



petitioner, above named, in the event of his arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of Mr. Randhir Kumar, learned Judicial Magistrate, 1st Class, Danapur/Successor Court in connection with Maner Police Station Case No.243 of 2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure. With further condition that petitioner shall fully cooperate with the investigation and trial of the case, failing which the Court-below shall be at liberty to take steps for cancellation of the bail-bonds of the petitioner in this case.

Mkr./-

(Birendra Kumar, J)

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