

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1169 of 2016

Arising Out of PS.Case No. -127 Year- 2016 Thana -HASANPUR District- SAMASTIPUR

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Lalo Rai, son of Kanhaiya Rai @ Krishna Kanhaiya Rai, resident of village-
 Sakarpura, P.S. Hasanpur, District-Samastipur

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Yugal Kishore -Advocate

For the Respondent/s : Mr. Binay Krishna-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

07 28-02-2017 Heard learned counsel for the appellant as well as
 learned Special Public Prosecutor.

Informant, Hare Ram Paswan, who happens to be father of deceased had recorded his fard-bayan on 03.06.2016 at 2.30 p.m. alleging inter alia that on the same day at about 11.40 a.m. while he was at his house, a child of same village came running and disclosed that dead body of Guddu is hanging in an orchard whereupon they rushed and found dead body of his son Guddu aged about 12 years hanging. During course of query, he came across information that his co-villagers, Lalo Rai (petitioner), Bauwa Rai, Kari Rai, who happen to be on inimical term since before throttled the deceased and then, hung the dead body.

Learned counsel for the appellant has submitted that



during course of investigation, the prosecution had tried to develop its story and for that, identified two persons, firstly his father Mushaharu Paswan, who claimed himself to be an eye witness to occurrence and secondly, Biru Paswan, F.I.R. attesting witness, who said that while he was returning after collecting grass, he found all the three running away and further, dead body of deceased was found hanging. To explain such situation, it has been submitted that had there been status as presently shown, then in that event, the informant instead of having been informed by a boy, would have been informed by his father and further, with a definite assertion to have these three accused responsible for causing death of the deceased and further, the occurrence was witnessed by his father. Not only this, it has also been submitted that there happens to be improbability in the background of the fact that while deceased was sleeping over '*Machain*', these three accused, who carry enmities since before would not have been allowed to grapple the deceased by Mushaharu Paswan, grand father of the deceased in the background of the fact that he might have been apprehensive of unforeseen circumstances as well as he might have raised alarm. In likewise manner, even after murder, the aforesaid Mushaharu Paswan would not have allowed the accused to go without any



obstacle. In likewise manner, Biro had not spoken with regard to presence of Mushaharu Paswan in the orchard where the occurrence has been alleged. That being so, statement of both two witnesses would not have been.

On the other hand, learned Special Public Prosecutor opposed the prayer and submitted that present stage does not happen to be that of trial Court.

Considering statement, for the present, I do not see it a fit case for grant of bail. Accordingly, prayer for bail is rejected.

However, if so desired, appellant may renew his prayer after examination of Mushaharu Paswan.

(Aditya Kumar Trivedi, J)

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