

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.75748 of 2018

Arising Out of PS. Case No.-313 Year-2018 Thana- MUFFASIL District- West Champaran

Sadab Hussain @ Saddab Hussain @ Saddab Alam, Son of Md. Tahir,
resident of Village- Chhawani, Ward No. 5, P.S. Kalibagh, District- West
Champaran Bettiah.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Pranav Kumar, Advocate
For the Opposite Party/s : Mr. Sir Pramod Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 21-02-2019 Heard learned senior counsel for the petitioner and
learned APP for the State.

The petitioner is languishing in custody since
21.06.2018 in a case registered for the offences punishable
under Sections 147, 148, 149, 341, 323, 384, 302 and 379 of the
Indian Penal Code.

The prosecution case as per the written report of
Birendra Singh submitted to the Station House Officer of Town
P.S. Bettiah is to the effect that on 21.06.2018 at 7.00 P.M., the
informant along with his son went to purchase vegetables to
Chhawani where 11 accused persons including the petitioner
were present from before, and when the son of the informant
proceeded to purchase LPG, then all the accused persons started



following him, thereafter, the accused persons demanded extortion and they started assaulting the son of the informant. The informant tried to pacify the assault but the accused persons dragged the son of the informant towards Manua Pool and started assaulting him and when the informant again tried to rescue his son, he was also assaulted. The accused persons repeatedly gave knife blow to the son of the informant and assaulted with bat on the neck and head of the son of the informant. Thereafter, the informant brought his son to the hospital where the son of the informant declared dead. The accused persons took away Rs.8,000/- and mobile phone.

It is submitted by learned senior counsel for the petitioner that though the petitioner is named in the First Information Report along with other ten accused persons but from the accusation, it appears that the informant was not present on the place of occurrence. During investigation the confession of co-accused Md. Azmaien, Balal @ Aurangjeb and Osama @ Abdullah Jamal were recorded which is the part of the FIR when their statements suggest that co-accused Azmaien gave knife blow repeatedly on the chest of the son of the informant. Similar is the statement of Shivam Kumar in paragraph 26 of the case diary, who is claims to be eye witness



to the occurrence. The postmortem report suggests four injuries, one lacerated wound on the back of the head, one incised penetrating wound on the chest caused by sharp cutting weapon when two abrasions have been found on the lower part of the cheek. Shivam, who claims to be eye witness to the occurrence, has also stated that co-accused Belal assaulted with an iron rod on the head of the victim. Hence, the manner of occurrence as stated by the co-accused persons in the confessional statements and the statement of sole eye witness Shivam in paragraph 26 of the case diary gets corroborated by the medical opinion. Moreover, other FIR named accused persons, Md. Bhutti, Nanibullah, and Syed Jameer Alam have been granted bail by different co-ordinate Benches of this Court vide Cr. Misc. Nos. 50535 of 2018, 72692 of 2018 and 62739 of 2018 respectively.

Learned APP after going through the case diary submits that the informant is eye witness to the occurrence and all the accused persons are alleged to have assaulted the victim and petitioner was one of them.

Considering the fact that the specific case of the informant is that the victim, the son of the informant, Vishal Singh was assaulted by 11 accused persons indiscriminately with knife, moreover, he was also assaulted with cricket bat on



the neck and head, but the accusation does not get corroborated with the medical opinion which suggests only one fatal incised injury and the same being corroborated by the confessional statement of the co-accused persons as well as the only eye witness Shivam Kumar, whose statement has been recorded in paragraph 26 of the case diary, let the above named petitioner be released on bail, 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, West Champaran at Bettiah in connection with Bettiah Muffasil P.S. Case No. 313 of 2018.

(Dinesh Kumar Singh, J)

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