

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25439 of 2018

Arising Out of PS.Case No. -76 Year- 2014 Thana -THAKRAHA District-
WESTCHAMPARAN(BETTIAH)

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Mangal Mushahar, S/o Inar Musahar, R/o Vill.- Jamuniya, P.S.- Thakaraha,
District- West Champaran.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Milind Kumar Mishra, Advocate.

For the Opposite Party : Mr. Shyam Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 16-07-2018 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner is languishing in custody since
19.05.2014 in a case for the offence registered under Section 302
of the IPC.

The prosecution story, in brief, is that on 12.05.2014
at about 8.00 P.M. when the deceased Tilakdhari Mushar had gone
at the *Kirana Shop* of Renu Kushwaha to purchase rice, then, an
altercation took place in between the informant's husband
Tilakdhari Mushar and this accused-petitioner on the point of
committing theft of *Tari* of the deceased by above
accused/petitioner. Thereafter, this accused-petitioner committed



murderous assault on the deceased by means of Fasuli (sharp edged weapon meant for extraction of *Tari*) causing fatal injury on the neck of the deceased. Deceased succumbed to his neck injury allegedly caused by this accused-petitioner by means of sharp edged weapon.

This is fourth attempt for grant of bail on behalf of the petitioner.

A report was called for. The same is on record. The trial has yet not been concluded. First bail application of the petitioner was disposed of on 08.10.2015 with a direction to expedite the trial and conclude the same preferably within a period of six months. Thereafter, on 29.06.2016 again a second bail application of the petitioner was disposed of with a direction to conclude the trial within a period of six months and third bail application of the petitioner was disposed of on 26.04.2017 with a direction to conclude the trial preferably within a period of six months.

In spite of repeated directions of this Court, the trial is still pending. The petitioner is in custody since 19.05.2014. The petitioner has got no criminal antecedent. There is no allegation of tampering with the evidence against the petitioner. As per allegation made in the F.I.R. a hot exchange took place between



the parties and on the spur of the moment the petitioner is alleged to have given a single *Fasuli* blow upon the deceased. There is no allegation of repeated blow. This indicates that the petitioner had no intention to commit the murder of the deceased. At best, offence under Section 304 of the IPC is made out. There is no material to suggest that the petitioner has committed offence under Section 302 of the IPC. The petitioner has remained in custody for more than four years.

On behalf of the learned counsel for the State, it has been submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances, let the petitioner above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge, Bagaha, West Champaran, in connection with Sessions Trial No. 147 of 2015, arising out of Thakaraha (Bhitaha) P.S. Case No. 76 of 2014.

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(Sudhir Singh, J)

