

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26853 of 2018

Arising Out of PS.Case No. -687 Year- 2017 Thana -PHULWARI District- PATNA

=====

Md. Danish, S/o Md. Saleem, R/o Munir Colony, P.S.- Phulwarishariff,
District- Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Singh

For the Opposite Party/s : Mr. Suresh Prasad Singh

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

3 28-05-2018

Heard.

The petitioner seeks regular bail in connection with Phulwari P.S. Case No. 687 of 2017 for the offences punishable under Sections 364, 302, 201 and 34 of the Indian Penal Code.

The case of the prosecution, as per the written report of the informant namely Mahindra Ram, is that on 27.10.2017, he had filed a Sanaha in the Phulwari Sharif police station pertaining to his elder son namely Mukesh Kumar having gone missing and during the course of search being made for the said Mukesh Kumar, the informant is said to have come to know from the friend of Mukesh Kumar namely Gautam Kumar and Suraj Kumar that on 19.10.2017 a fight has taken place in the night during the course of gambling in which the said Mukesh Kumar aggressively participated and then the accused persons had threatened to kill, whereafter the said Mukesh Kumar had vanished. According to the informant, on 29.10.2017, he further



came to know from two boys namely Dharmbir and Bobby that on 19.10.2017 when they were going to their village and they had reached near the Isopur bridge, then ten to twelve persons stopped a motorcycle and assaulted the riders and thereafter, they left them after coming to know that Mukesh Kumar was not one amongst the said two riders of the motorcycle. It is further the case of the informant that the said two persons had told him that when they moved ahead for some distance and when they had looked at their back, they saw that Mukesh Kumar was coming on a black colour motorcycle and then the said ten to twelve boys stopped him and had assaulted him. On the basis of the said information received by the informant, the informant is said to have come to know about the accused persons, having killed the son of Mukesh Kumar.

The learned counsel for the petitioner submits that there is no evidence with respect to the petitioner having fought and/or participated in the quarrel between the five accused persons and the deceased person namely Mukesh Kumar. It is further submitted that even if the F.I.R. is perused, it would be apparent that the petitioner has not been named as a person of the group, hence the allegation made in the F.I.R. is based on assumption that the petitioner had also participated in the occurrence which is solely based on surmises and conjecture. It is further submitted that the case of the petitioner is similarly situated to that co-



accused person namely Md. Raj, who has already been granted bail vide order dated 17.05.2018 passed in Cr. Misc. No. 25496 of 2018. Lastly it is submitted that the postmortem report of the deceased shows that the deceased had died on account of asphyxia, hence it is argued that it is not probable that some persons had strangled the deceased. Thus, in the nutshell, the argument of the learned counsel for the petitioner is that at best the petitioner can be said to be one of the person of the group with whom the deceased Mukesh Kumar had fought earlier. It is further submitted that the petitioner is languishing in jail since 07.12.2017.

Having regard to the facts and circumstances of the case, the petitioner, above named, is directed to be enlarged on regular bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna in connection with Phulwari P.S. Case No. 687 of 2017.

(Mohit Kumar Shah, J)

BTiwary/-Md Rashid

U		T	
---	--	---	--

