

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.62022 of 2018

Arising Out of PS. Case No.-96 Year-2018 Thana- BELSAND District- Sitamarhi

Om Prakash Kumar, S/o Kishuni Sah, Resident of Village- Hanuman Nagar,
Ward No. 10, P.S.- Belsand, Dist.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ritesh Kumar Narain Singh, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 14-12-2018 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 307,323,341 and 504/34 of the Indian Penal Code. Subsequently, Section 302 of the I.P.C. was also added.

The prosecution case got initiated on the basis of written report dated 04.06.2018 submitted by Sima Devi to the Station House Officer, Belsand Police Station to the effect that on 04.06.2018 about 10.00 A.M., the informant was sitting in her house, in the meantime, her brother-in-law (devar) Hariom Kumar entered into the house and started abusing the informant. On protest being made, he assaulted the informant. The informant informed her in-laws house about the incident. Then,



Shyam Babu Sah, the brother of the informant came to her house and tried to reconcile the issue through panchayat, but the issue could not be reconciled. Suresh Sah and Shyambabu Sah, both brother of the informant stayed in the in-laws hosue of the informant and called the brother-in-law and cousin father-in-law of the informant to reconcile the issue. Thereafter, the accused persons brutally assaulted the brother of the informant, namely, Suresh Sah by means of iron rod, lathi and sharp cut weapon, causing bleeding injury on his head. Injured Suresh Sah initially treated at Primary Health Centre, Belsand and thereafter, referred to S.K.M.C.H, leading to registration of Belsand P.S. Case No.96 of 2018 on 04.06.2018. Subsequently, the brother of the informant, Suresh Sah succumbed to the injures on 06.07.2018, as a result, after one month, Section 302 of the I.P.C. was also added.

It is submitted by learned counsel for the petitioner that the accusation of assault is omnibus and general. The injured Suresh Sah's statement has been recorded in paragraph no.30 of the case diary, wherein, he has specifically stated that from a piece of wood log, co-accused, Harishchandra Sah assaulted on his head and has not named the petitioner as assailant. The post-mortem reflects two injuries one is abrasion on left thigh, whereas,



second injury is lacerated wound on the scalp, causing hemorrhage and the cause of death has been opined by the doctor as hemorrhage and shock due to injuries caused to victim. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned APP for the State, after going through the case diary, it is alleged that the petitioner also made assault, but the injured-deceased Suresh Shah has named specifically co-accused, Harishchandra Sah, who has assaulted on his head with a piece of wooden log.

Considering the fact that the injured has specifically named, co-accused, Harishchandra Sah and there is corresponding injury found by the doctor, however, accusation of assault alleged against the petitioner is not being corroborated by the medical opinion, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-1, Sitamarhi, in connection



with Belsand P.S. Case No.96 of 2018, subject to the conditions
as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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