

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8420 of 2018

Arising Out of PS.Case No. -53 Year- 2016 Thana -PIPRA District- SUPAUL

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1. Sanjiv Sharma @ Sanjit Sharma S/o Maheshwar Sharma, R/o village-
Jhitkiyahi, P.S.- Pipra, District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun

For the Opposite Party/s : Smt. Pushpa Sinha

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 07-03-2018 In view of the supplementary affidavit filed, let the

father's name of the present petitioner be corrected in the cause

title as Sanjiv Sharma @ Sanjit Sharma son of 'Maheshwar

Sharma' instead of 'Makeshwar Sharma'.

Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

The petitioner has been in custody since 26.08.2017

in connection with Pipra P.S. Case No. 53/2016 registered for the

offences punishable under Sections 302/34 of the Indian Penal

Code.

Learned counsel for the petitioner submits that the

present Sanjiv Sharma @ Sanjit Sharma is the son of Maheshwar

Sharma who is the son of the informant of the present case. It is



further submitted that while the present petitioner was one of the attesting witnesses of the F.I.R., the police under some misconception has now made the petitioner an accused which is wholly misconceived. It is further submitted that the mother of the present petitioner has categorically stated that it was the son of Ram Shankar Sharma who is also named as Sanjit Sharma who had attacked the daughter of the informant with an axe resulting in her death. Learned counsel for the petitioner, however, submits that it is on the statement made by the other son of the informant, namely, Subhash Kumar, the petitioner's name has surfaced. The said name was taken by one Gujiya Devi who is not a chargesheet witness and she has not been examined by police at any stage, therefore, the introduction of the name of the present petitioner is being made accused is solely on the basis of the statement of the said Gujiya Devi whose statement has not be recorded.

Diary in the present case was called for which has since been received.

Learned counsel appearing on behalf of the State submits that it is, in fact, correct that the name of the petitioner as an accused having assaulted the deceased has come at the instance of the Subhash Kumar, brother of the present petitioner, but he has stated that he has heard from one Gujiya Devi that it was his own



brother who has killed the deceased/his sister. It is, however, submitted that the statement of the said Gujiya Devi does not find place anywhere in the case diary.

Having considered the entire facts and circumstances of the case and there being a clear misconception and a distinct cloud on the prosecution story, 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 A.C.J.M.III, Supaul, in connection with Pipra P.S. Case No. 53/2016, subject to the following conditions:-

- (1) One of the bailors will be his father/mother.
- (2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.
- (3) The petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.
- (4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of



bail.

Anjana Mishra, J)

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