

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32846 of 2018

Arising Out of PS. Case No.-25 Year-2018 Thana- SURSAND District- Sitamarhi

Munna Thakur @ Santosh Thakur, S/o Late Rambhajan Thakur, R/o Vill.- Mahmadpur, P.S.- Bajpatti, District- Sitamarhi (But the Police remanded him in the name of munna Thakur S/o Ramchandra Thakur R/o Vill.- Babu Narha, P.S.- Bajpatti).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the Informant	:	Mr. Shashank Shekhar, Advocaet
		Mr. Sri Ashhar Mustafa, Advocate
For the State	:	Mr. Ahtash Ali Khan, APP-4

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 16-08-2018 Heard learned counsel for the petitioner, learned counsel for the informant and the State.

The petitioner is in custody since 26.02.2018 in connection Sursand P.S. Case No. 25/18 for the offence registered under Section 324/307/302/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the present case is of mistaken identity and the petitioner Munna Thakur is not the person who is alleged to have participated in crime as in the F.I.R. itself, the name of the main accused has been stated as Munna Thakur, son of Ramchandra Thakur of village Babu Narha, whereas, the present petitioner is Santosh



Thakur @ Munna Thakur, son of Rambhajan Thakur.

Learned counsel for the petitioner further submits that the present case being one mistaken identity may be granted privilege of bail.

Learned counsel appearing on behalf of the informant submits that such plea as has been raised, after investigation has actually been found that this very petitioner had participated actively in the death of the brother of the informant.

Case diary is called for which has since been received.

Learned counsel for the State has referred to several paragraphs of the case diary and submitted that as per the FIR there are four accused persons named therein who are said to have attacked one after the other, out of which two accused persons are said to have given knife blow, dagger blow, whereas, the other two accused persons also are said to have assaulted the informant's brother. So far as, the petitioner is concerned, even in the FIR, there is no any statement that the petitioner was reported to be there while going over to narrate the actual incident, the informant has not stated his name, furthermore, the statement of the injured witnesses who is the actual eye-witness of the entire incident, does not state that the petitioner attacked either of the



two brothers one of who had died.

Learned counsel for the State has further submitted that in the case diary, Chandan Kumar has narrated in a graphic manner the entire incidence and he has confirmed that it was this petitioner, Munna Thakur, son of Rambhajan Thakur who was there at the place of occurrence and therefore, the question raising doubts over the identity, now stands cleared.

Furthermore, a report had been called from the S.P., Sitamarhi, who has submitted the report dated 27.07.2018 contained in Memo No.261/L.C. that the petitioner Munna Thakur @ Santosh Thakur, son of Ram bhajan Thakur resident of village, Mahmadpur, P.S.-Bajpatti, District- Sitamarhi was in fact the matter of Amana Math, where the incident had occurred and he used to visit the place of occurrence and thus he has also informed that the petitioner was one of the persons and the question of mistaken identity also stands ruled out by the said report.

Having considered the aforesaid facts and circumstances of the case and after consideration of the statement of one of the injured witness who was the sole eye-witness and who had witnessed the entire occurrence from the time the fight started, till the time the accused persons ran away,



it appears that the petitioner had not indulged in any overt act save and except state that the two brothers be taken away to the Amana Math and it has been stated that he was in control of the other accused persons.

In view of the said material being present in the case diary and there being no further cogent material to connect him with the actual occurrence of inflicting knife injury, let the petitioner, above named, 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 Judicial Magistrate, Pupri, Sitamarhi, in connection with Sursand P.S. Case No. 25 of 2018, subject to the following conditions:-

(1) One of the bailors will be his own blood relative, preferably, father, mother, brother, sister and /or his wife.

(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 his 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)

Khushbu/-

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

