

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36731 of 2018

Arising Out of PS.Case No. -36 Year- 2018 Thana -VIJAYPUR District- GOPALGANJ

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Chinta Haran Tiwari, S/o Late Subhash Tiwari, R/o Vill.- Ranipur, P.S.-
Vijayipur, District- Gopalganj

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Anuj Kumar, Advocate
	:	Mr. Ashok Kr. Kashyap, Advocate
For the Informant	:	Mr. Kumar Gangesh Gunjan, Advocate
	:	Mr. Ashok Kumar Verma, Advocate
For the State	:	Mr. Rajballabh Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

6 23-08-2018 Heard learned counsel for the petitioner and

learned counsel appearing on behalf of the State as well as the

learned counsel appearing for the informant.

The petitioner is in custody since 26.02.2018 in
connection with Vijayipur P.S. Case No.36 of 2018 registered
for the offence punishable under Sections 302, 307, 341, 323,
325, 326, 504 and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that
admittedly, the informant is not an eye-witness to the
occurrence and there are two parts of the occurrence; one in
which the accused persons came to the doorstep and indulged
in abusive language and then went away. It is recorded in the



F.I.R. that thereafter two persons, namely, Sochharan Tiwari and Ambikesh Tiwari, both father and son, came to the place of occurrence and followed the son of the informant and at a place located near the house of one Ramzan Mian, the informant's son was brutally attacked by these two persons, which resulted in serious injury and he became unconscious. Thereafter, the petitioner, Chinta Haran Tiwari, reached the place and after noticing that the said deceased Sriram Tiwari was already dead, left him in front of their house. Learned counsel for the petitioner further submits that in view of the fact that in the main occurrence, the petitioner Chinta Haran Tiwari is not present and the main allegation is attributed to Sochharan Tiwari and Ambikesh Tiwari, the petitioner may be extended the privilege of bail.

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

Opposing the application for bail, the learned counsel appearing on behalf of the informant has submitted that there is a clear involvement of the petitioner in the alleged occurrence, leading to the death of the son of the informant and most of the witnesses have corroborated the story. It is further submitted that though the informant has learnt about



the occurrence from other co-villagers, the occurrence cannot be denied and the role of the petitioner, as has been narrated by other co-villagers, clearly shows that he was also involved in the occurrence. Thus, the petitioner is not entitled to the privilege of bail.

Learned counsel appearing on behalf of the State, after perusal of the case diary, has pointed out to the injuries on the person of the deceased, which clearly proved that the petitioner along with others had participated in the occurrence and the deceased was brutally murdered at their hands. It is further submitted that many of the witnesses have stated that Chinta Haran Tiwari (the petitioner) had already reached the place of occurrence at the time when the alleged assault was taking place on the deceased.

In response to such submission made by learned counsel for the informant and the learned counsel for the State, learned counsel for the petitioner has pointed out to paragraph nos. 9, 10 and 11 of the case diary, in which witnesses, Markandey Tiwari, Tarkeshwar Tiwari and Avinash Kumar, have stated that after the deceased was assaulted and had become unconscious, the present petitioner has also reached the place of occurrence and thus their involvement to



the extend of assault stands ruled out, though the witnesses have stated that though he has reached the place of occurrence, he is not said to have participated in the assault and thus he may be extended the privilege of bail as he has no criminal antecedent.

Having considered the entire facts and circumstances of the case and after consideration of the materials which have surfaced in the case diary, it appears that the informant is not an eye-witness and whatever information he has gathered is from such witnesses who had reached the place of occurrence on hearing *hulla*. Such witnesses have also submitted that the petitioner had reached after the assault and after the deceased had become unconscious. There is no specific allegation by such witnesses that the petitioner had also attacked.

In view of such facts and circumstances as have been noted above and for the reasons stated in the preceding paragraphs, 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 the learned Chief Judicial Magistrate, Gopalganj, in connection with Vijayipur P.S. Case No.36 of 2018, subject to the



following conditions:

(1) One of the bailors will be the blood relative of the petitioners, preferably, mother, brother, son, sister and/or their wife.

(2) The petitioners shall not indulge themselves in any similar offence till conclusion of the trial.

(3) The petitioners shall remain physically present in court on each and every date during trial and in the event of their failure on two consecutive dates without sufficient reasons, their bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioners shall co-operate with the investigation, if not already concluded, and make themselves 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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