

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19740 of 2018

Arising Out of PS. Case No.-181 Year-2017 Thana- MAHARAJGANJ District- Siwan

Vijay Kumar @ Vijay Prasad @ Sant S/o Radha Krishun Sah @ Radha Krishna prasad, R/o Village- Sihauta Bazar, P.S.- Maharajganj, District-Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Opposite Party/s : Mr. Dr. Ajeet Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-04-2018 Heard learned counsels for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under sections 302/34 of the IPC.

The prosecution case got initiated on the fardbeyan of Sukesh Kumar Tiwari, recorded by the SHO, Maharajganj Police Station on 6.10.2017 in Primary Health Centre, Maharajganj, to the effect that on the same day at about 12.00 O'clock when the informant was going to the court of Maharajganj SDO, then he heard the alarm being raised by his nephew. Thereafter the informant reached on the spot and saw that co-accused Ashok Prasad, petitioner Vijay Kumar alias Vijay Prasad alias Sant, Rishabh Kumar, another Vijay Prasad, son of Baijnath Prasad (non- petitioner) and Gaurav Kareji were



assaulting the informant's nephew with knife. When the informant and other villagers protested, then the accused persons threatened of dire consequences, whereafter the informant and villagers escaped from the scene, while the nephew of the informant fell down near Rajendra Tea stall. Subsequently, the nephew of the informant was taken to the hospital, where he was declared dead.

It is submitted by learned counsel for the petitioner that the FIR was registered on 6.10.2017 at 4.15 P.M. but it reached to the court of the learned ACJM on 9.10.2017, which suggests that the FIR is ante-dated. The accusation is omnibus and general against five accused persons of making assault but the medical report suggests that the victim received three injuries, which not only demolishes the accusation of assault but makes the presence of the informant at the place of occurrence doubtful. The owner of the Rajendra Tea Stall where the victim fell down, has not claimed to have seen the occurrence, whereas none of the villagers who have been named by the informant, have supported the prosecution version, as eye witness. It is further submitted that co-accused Rishabh Kumar has confessed that he caused all the three injuries to the victim.

Learned APP, however, submits that there is specific



accusation against the petitioner to have caused injury to the victim.

Considering the fact that there is specific accusation of making assault by knife by five persons whereas the postmortem report reflects only three injuries, statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, coupled with the confession of co-accused Rishabh Kumar having confessed to have caused all the three injuries to the victim, let the petitioner above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks 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 V, Siwan in connection with Maharajganj P.S. Case No. 181 of 2017 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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