

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 28384 of 2018

Arising Out of PS.Case No. -336 Year- 2017 Thana -HAJIPUR SADAR District- VAISHALI
(HAJIPUR)

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1. Jai Prakash Rai, S/o Late Dharm Nath Rai, R/o Vill. - Dighi Kala West,
P.S. - Sadar Hajipur, District - Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan No. II

For the Opposite Party/s : Mr. Rana Randhir Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 14-08-2018 Heard learned counsel for the petitioner and
learned APP for the State.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 147, 148, 149, 341, 447, 323,
307, 302, 504, 506 and 120B of the Indian Penal Code.

According to FIR, the petitioner and other family
members including the female members of the family variously
armed, came to the spot where disputed land was being measured
by the authorities on 15.07.2017. Allegation is that the petitioner
not only exhorted others to assault the brother of the informant,
rather he bitterly assaulted to the brother of the informant as a
result whereof he died. The aforesaid written information was
lodged with the police on 15.07.2017. Thereafter the same
informant gave a written information on 17.07.2017 which is part



of the FIR that the people of the nearby places informed that the FIR named accused persons and others had dragged the deceased from the house of Sanjay Singh where the deceased was hiding himself and thereafter took him towards the railway track and after assaulting, threw the body in a half constructed house from where the police took the victim for treatment to the hospital where he died.

On the basis of subsequent statement, submission of learned counsel for the petitioner is that, in fact, the informant is not an eye-witness of the occurrence as claimed in the first statement. Petitioner is in custody since 30.08.2017.

The report of the learned trial Judge would reveal that trial has not concluded as yet nor there is chance of conclusion of the same in near future.

Other co-accused, named in the FIR, have already been allowed bail by this Court vide order dated 04.01.2018 passed in Cr. Misc. No. 55408 of 2017 as well as by some other Coordinate Benches of this Court vide order dated 19.12.2017 passed in Cr. Misc. No. 61062 of 2017 (Annexure-2 series).

Learned counsel for the informant opposed the prayer for bail on the ground that the petitioner is accused in two



other criminal cases referred at Annexure-D and F to the counter affidavit. The petitioner is not appearing in the complaint case referred at Annexure-D, though there was direction for his appearance. He further submits that one of the orders of the complaint case would reveal that the petitioner was sent for his appearance in the complaint case from the jail but did not appear in court.

The aforesaid might be a case of disciplinary action against the authorities who were responsible to produce the prisoner in the court. The petitioner cannot be faulted who was in custody on that day.

Learned counsel for the informant further submits that the petitioner is threatening the witnesses from jail itself and the trial is at the advanced stage. Only some of the prosecution witnesses are to be examined.

Considering the conflicting statement of the informant in his two written reports, it is suspicious for the purpose of this bail that the informant was an eye-witness of the occurrence as claimed in the first information report. In the circumstances, the petitioner who is in custody since 30.08.2017, deserves to be released on bail, accordingly, the petitioner, above named, is directed to be released on bail on furnishing bail bond of



Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Hajipur Sadar Police Station Case No. 336 of 2017, subject to the condition that both the bailors shall be resident of the territorial jurisdiction of the learned court below and if the petitioner would fail to cooperate with the trial, the court below shall be at liberty to cancel the bail bond of the petitioner and forfeit the amount of the bailors.

Learned counsel for the informant has apprehension that in the event of release, the petitioner would not cross-examine the informant on 18.08.2018, the date fixed for cross-examination of the informant by the petitioner's side.

Learned counsel for the petitioner submits that if the witness would be in attendance, the petitioner would certainly cooperate and cross-examine the witness. Moreover, the petitioner would file affidavit that he would not tamper with any evidence during course of trial and shall abide by the affidavit.

(Birendra Kumar, J)

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