

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17148 of 2019

Arising Out of PS. Case No.-29 Year-2018 Thana- RAJNAGAR District- Madhubani

Sampati Choudhary aged about 36 years, Male, S/o Late Ram Lochan Choudhary Resident of Village-Nijamat, Bhat Simar, P.S.-Raj Nagar, District-Madhubani.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Binod Kumar Singh, Advocate Ms. Vagisha Pragya Vacaknavi, Advocate Ms. Sushmita Sharma, Advocate
For the Informant	:	Mr. Gagandeo Yadav, Advocate Mr. Udeshya Kr. Yadav, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 23-08-2019 Heard learned counsel for the petitioner and
learned counsel for the informant.

Petitioner, in the present case, is seeking regular bail in connection with Raj Nagar P.S. Case No. 29 of 2018 registered under Section 341/323/325/302/34 of the Indian Penal Code, pending in the court of learned Judicial Magistrate – 1st Class, Madhubani.

Earlier the prayer for bail of the petitioner was rejected by this court on 13.06.2018 in Cr. Misc. No. 32446/2018. While rejecting the prayer for regular bail of the petitioner, this court observed that the allegation against the petitioner was that he had given a spade blow on the



head of the deceased and that was the only injury found in course of post-mortem of the deceased. Since the injury was specifically attributed to this petitioner this court refused to grant regular bail.

Learned counsel representing the petitioner submits that in the post-mortem report nothing is disclosed about the nature of the weapon by which the injury has been caused. According to learned counsel, the spade injury would be in the nature of a cut injury, but the post-mortem report is not corroborating the nature of weapon allegedly held by this petitioner.

It is further submitted that the alleged occurrence took place on 07.02.2018 whereas the F.I.R. was registered on 08.02.2018, in between there had been sufficient time for tutoring and the F.I.R. would show that entire family of the petitioner was implicated in this case. It is submitted that till date the charge has not been framed.

On the other hand, learned counsel for the informant has opposed the prayer for regular bail of the petitioner, as according to him, the petitioner is the main assailant. It is he who had assaulted the deceased on his



head and as such he does not deserve bail at this stage.

Having heard learned counsel for the petitioner and the informant, this court is of the considered opinion that non-framing of charge within one year after rejection of the prayer of the petitioner cannot be a ground alone to grant regular bail to the petitioner. The fact remains that as per the F.I.R. it is the petitioner who had given the spade blow on the head of the deceased which proved fatal.

The submission of learned counsel for the petitioner that the nature of weapon has not been indicated in the post-mortem report will not be a ground at this stage to enlarge the petitioner on bail. Equally the submission that there had been some delay in lodging of the F.I.R. is not to be seen at this stage when the F.I.R. as well as the post mortem report corroborates each other to the extent that there had been a assault on the head of the deceased which caused injury and proved fatal for his life and that assault is specifically attributed to this petitioner. This court is thus not inclined to grant regular bail to the petitioner at this stage.

The trial court is directed to expedite the trial and



take steps to frame the charge and proceed further. The prosecution is directed to cooperate in early conclusion of trial.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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