

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22361 of 2019

Arising Out of PS. Case No.-9 Year-2017 Thana- THAWE District- Gopalganj

AFTAB ALAM Son of Late Jamil Ahmad, Resident of Village - Bara Jagmalwa, P.S.- Thawe, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prashant Kumar

For the Opposite Party/s : Mr. Akhileshwar Dayal

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 17-05-2019 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The petitioner has been in custody since 03.04.2017, seeks to renew his prayer for bail in connection with Thawe P.S. Case No. 9 of 2017 registered for the offences punishable under Sections 147/148/149/341/323/447/504/379/302 of the Indian Penal Code.

Learned counsel for the petitioner submits that Learned counsel for the petitioner submits that though it has been urged that the petitioner had assaulted the deceased lady resulting in her death, the prosecution case also discloses that after the victim lady fell down, she had been mercilessly attacked by other three accused persons with hands and fists and also with bricks which had caused serious injuries to her. It is submitted that though such injuries have also been alleged, such



injuries have been found in the post-mortem which was conducted on the deceased lady and the only injury which has been found is the head injury which is said to have been caused by hard and blunt substance. Learned counsel for the petitioner further urges that on the earlier occasion, the prayer for bail had been rejected on the single premise that the petitioner had attacked on the head, but considering the period of custody and also because the charge has not yet been committed of the case to the Court of Sessions, the petitioner may be extended the privilege of bail. It is further submitted that though the allegation is that the informant had also been attacked, no injury has been reported through the entire length of the case diary and this also create serious cloud on the prosecution story. Moreover, the fact that the doctors found rigor mortis on the deceased body also raises a question of over the time of the occurrence as admittedly the post-mortem was conducted at 05:00 P.M. whereas the time of injury given in the F.I.R. is 01:30 P.M. onwards. It is thus prayed that the petitioner may be extended the privilege of bail as he has got no criminal antecedent and he shall co-operate in the trial and be present as and when required by the Court.

In order to ascertain the veracity of the submissions



made by the learned counsel for the petitioner, the diary and post-mortem report had also been called for by this Court which have been duly examined by the learned State counsel and he has submitted that, save and except, one injury found on the head of the deceased lady, there is no further injury available as per the post-mortem report.

Considering the entire facts and circumstances of the case and that the petitioner has already been in custody for 2 years and undertakes to face the trial as and when required and shall appear before the Court as and when required, let the petitioner above named be released on bail, on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Gopalganj, in connection with Thawe P.S. Case No. 09/2017, subject to the following conditions:-

(1) One of the bailors will be his own blood relative, preferably, 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 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)

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