

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76593 of 2018

Arising Out of PS. Case No.-158 Year-2017 Thana- GOPALPUR District- West Champaran

Rahul Kumar @ Pyarelal Sah @ Rahul S/o Nand Kishore Sah, r/o Village-
Dakahi, P.S.- Gopalpur, District- West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey
For the Opposite Party/s : Mr.Sri Chaubey Jawahar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 16-05-2019 Heard the learned counsel for the petitioner and the

learned APP for the State as well as the learned counsel for the

informant.

The petitioner seeks regular bail in connection
with Gopalpur PS case no. 158 of 2017 instituted for the
offences punishable under Sections 341, 323, 324, 302/34 of
Indian Penal Code.

The allegation, as per the *fardbeyan* of the
informant, is that the petitioner and others had engaged in
assaulting the father of the informant resulting in father of the
informant being inflicted with grievous injury and ultimately, he
is said to have died in the hospital.

The learned counsel for the petitioner, by
referring to paragraphs no. 18 to 22 of the supplementary case



diary, submits that the independent witnesses have stated before the police that the occurrence had taken place during the course of plucking *Bhatua* (i.e. a sort of pumpkin) which is said to have been plucked by the petitioner and thrown towards the deceased, which the deceased could not catch properly, hence it resulted in injuries being inflicted on the head and arms of the deceased. The petitioner has also referred to paragraph no. 25 of the case diary to contend that the police had submitted a report, where, *prima facie*, it was of the opinion that the investigation has led to revelation of the fact that the offence can be categorized as an offence under Section 304 of the Indian Penal Code. The learned counsel for the petitioner has further submitted that the petitioner is having a clean antecedent and he is languishing in custody since 20.11.2017.

The learned counsel for the informant and the learned counsel for the State have submitted that para 28 of the case diary would reveal that the police has subsequently submitted another report, wherein it has disbelieved the statement of the independent witnesses regarding story of plucking of *Bhatua* and the same having been thrown towards the deceased and has infact, relied upon those statements of the independent witnesses which point towards the petitioner and



others having assaulted the deceased resulting in his death.

Having regard to the facts and circumstances of the case as also considering the long incarceration of the petitioner and in view of the contradictory statements of the independent witnesses, I deem it fit and appropriate to enlarge the petitioner on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge F.T.C.-II, Bettiah, West Champaran in connection with Gopalpur PS case no. 158 of 2017.

(Mohit Kumar Shah, J)

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