

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34334 of 2019

Arising Out of PS. Case No.-77 Year-2019 Thana- AURAI District- Muzaffarpur

Shiv Ratan Rai, S/o Late Gokhul Rai, R/o village- Barhad, P.S.- Hathauri,
District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Ranjan

For the Opposite Party/s : Mr.Rajendra Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 27-05-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 24.03.2019 in a case registered for the offences punishable under Sections 302, 341, 323, 147, 148 and 354 of the Indian Penal Code.

The prosecution case, as per the fardbeyan of Ajay Kumar, recorded by A.S.I. Mithilesh Kumar of Aurai P.S. on 23.03.2019 at 11.20 A.M., is to the effect that on the same day at 8.00 A.M. the informant was at his tea stall, in the meantime, Amar Nath Thakur, Kesaw Kumar, Deepak Kumar, Suman, Nirmala Devi, Sanju Devi, Vishwanath Pandey, Ram Udar Rai, Shiv Ratan Rai, the petitioner and Jailal Sahni came at the tea stall and asked the mother of the informant to vacate the same.



It is alleged that co-accused Amar Nath Thakur caught hold of the neck of the mother of the informant and other co-accused persons including the petitioner assaulted the mother of the informant with lathi, danda and iron rod, as a result, the mother of the informant became unconscious. It is further alleged that when the informant and other family members came to rescue, they were also assaulted by all the accused persons. The mother of the informant died on the spot.

It is submitted by learned counsel for the petitioner that the accusation of assault is against 10 persons including the petitioner when only two marginal size injuries, i.e., one bruise on left thigh and one abrasion on the left side of lower abdomen of the deceased have been found and injuries have not been found to be the cause of death, as a result, the viscera has been preserved. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the petitioner is named in the FIR with specific accusation of assault.

Considering the fact that the specific accusation of throttling the mother of the informant has been levelled against co-accused Amar Nath Thakur but the postmortem report does not suggest injury on the neck, moreover, the accusation of



assault against ten accused persons is not corroborated by medical opinion and the accusation being omnibus and general, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-13 -cum- Sub Judge-14, Muzaffarpur in connection with Aurai P.S. Case No. 77 of 2019.

(Dinesh Kumar Singh, J)

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