

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76249 of 2018

Arising Out of PS. Case No.-517 Year-2015 Thana- SIKARPUR District- West Champaran

Mantu Upadhyay @ Arun Kumar Son of Late Manager Upadhyay, Resident of Village- Hardiya Chok, Narkatiyaganj, P.S. Sikarpur, District- West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhinay Raj

For the Opposite Party/s : Mr.Smt. Sucheta Yadav

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 27-02-2019 Heard learned counsel for the petitioner, learned counsel for informant and the learned APP for the State.

The petitioner seeks bail in connection with Sikarpur P.S. Case No. 517 of 2015 instituted for the offence under Section(s) 302/34 of the Indian Penal Code.

Learned counsel for petitioner has submitted that informant and petitioner are own brothers.

It is alleged in the written report by the informant that his mother was living with this petitioner. Petitioner was not allowing his mother to meet the informant. It is further alleged that Informant had earlier filed Sikarpur P.S. Case No. 89 of 2013 against this petitioner and others. It is further alleged that the mother of the informant was to retire in the month of



March, 2016 and in the greed to get the compassionate appointment she was murdered by this petitioner along with other family members.

Case diary has been received.

Learned counsel for petitioner has submitted that statement of brother-in-law, daughter, son-in-law, nephew etc. of the deceased and his other family members are available in paragraph nos. 10, 11, 12, 13 and statement of independent witnesses are available in paragraph nos. 27, 28, 44, 45, 109 to 117 of the case diary, wherein they have stated that the deceased was suffering from illness. She was totally bedridden and died due to aforesaid illness. Case has been lodged due to personal dispute between both the brothers.

Postmortem report is available with the case diary. The doctor has kept the opinion reserved till the receipt of the viscera report. The F.S.L. report has been received, wherein, Aluminium Phosphide (Celphos) was detected in the viscera kept in the jar.

Learned counsel for petitioner submits that petitioner was taking all care of his mother. She was bedridden for several years. She was suffering from kidney troubles. Both kidneys were not functioning. He has enclosed the copy of medical



prescription as Annexure-3 to the bail petition. He further submits that earlier case has also been filed between the parties vide Sikarpur P.S. Case No. 378 of 2010 which is also pending.

In the written report, mere suspicion has been raised by the informant against this petitioner. During investigation not a single witness including the family members of the deceased has levelled any allegation of specific overt act against this petitioner of committing murder of the deceased.

Learned counsel for informant has appeared and opposed the prayer for bail.

Petitioner is in custody since 20.08.2018.

Considering the aforesaid, let the petitioner, above named, 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 the learned Chief Judicial Magistrate, West Champaran, Bettiah in connection with Sikarpur P.S. Case No. 517 of 2015 subject to the condition that both the bailors shall be the close relative of the petitioner.

(Sanjay Priya, J)

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