

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 45371 of 2019

Arising Out of PS Case No.-11 Year-2019 Thana- KOPA District- Saran

Kishan Sharma, aged about 19 years, Gender-Male, Son of Rama Kant Sharma, Resident of Village- Bhatwalia, P.S.- Kopa, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate
		Mr. Vijay Anand, Advocate
For the State	:	Mr. Satyavrat Verma, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 11-12-2019

Heard Mr. N. K. Agrawal, learned senior counsel for the petitioner and Mr. Satyavrat Verma, learned APP for the State.

2. The petitioner seeks bail in Kopa PS Case No. 11 of 2019 dated 19.01.2019 instituted under Sections 302/34 of the Indian Penal Code.

3. The allegation against the petitioner and another co-accused is of assaulting the son of the informant with knife, causing his death.

4. Learned counsel for the petitioner submitted that though the allegation is of assault by knife but the postmortem indicates only one injury. It was submitted that the incident is said to have taken place at 4:00 PM and the postmortem was conducted at 9:00 PM, i.e., after a gap of five hours and the doctor has opined



that the death occurred six to twelve hours prior to the postmortem, and thus, the petitioner cannot be said to be guilty, and the assault, if any, by the petitioner cannot be the cause of death. It was submitted that the petitioner is in custody since 29.01.2019. On a query of the Court as to why there would be false implication, no answer was forthcoming.

5. Learned APP, from the case diary, submitted that the allegation is specific of assault by knife on the neck, which has been corroborated in the postmortem report. It was submitted that the father being the informant would not implicate somebody at the cost of letting away the main culprit as it was relating to the murder of his son, and, thus, the allegations cannot be taken to be made with some ulterior motive. It was further submitted that the opinion in the postmortem report, which relates to time elapsed since death is apparently of no consequence for the reason that in the FIR itself, it has been stated that the assault was continuing at 4:00 PM when the informant received information and had gone to the place of occurrence and, thus, such opinion cannot be prejudicial for the prosecution story when specifically the informant has stated the name of the petitioner and another co-accused.



6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

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