

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56384 of 2019

Arising Out of PS. Case No.-52 Year-2019 Thana- SANOKHAR District- Bhagalpur

BINDESHWARI YADAV Son of Late Dharmdeo Yadav Resident of Village -
Bhawanipur Bochaha, P.S.- Sanokhahar, Dist.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Subodh Prasad, Adv.

For the Opposite Party/s : Mr.Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 04-12-2019 Heard learned counsel for the petitioner as well as
learned APP.

Informant is not an eyewitness to occurrence. He came to know about the occurrence from his daughter, Ranju Kumari who had disclosed only against Bhavesh to have nailed the deceased, Rupesh and so, in worst case, it could be against Bhavesh. Furthermore, it has been submitted that informant happens to be genuine in his conduct who had disclosed that when he came out from his house after hearing cry of Ranju that Bhavesh after nailing Rupesh threw him in the pond, found Bhavesh, Bindeshwari Yadav, (petitioner) and Nandlal running away. It has also been submitted that after completing investigation, the matter has been reported by the I.O. as a mistake of fact but, differing therefrom, cognizance has been



taken. Then it has been submitted that Ranju has been examined under para-7 of the case diary whereunder, she had identified Bhavesh to be the sole assailant.

That being so, it is a fit case whereunder, petitioner may be released on bail.

Learned APP opposed the prayer for bail and submitted that investigation was carried on by the Investigating Officer in collusive manner irrespective of the fact that postmortem did justify the allegation on account of having presence of four ante-mortem injuries, i.e., as follows:-

- 1) One linear abrasion 1/4" long was present on anterior aspect of upper part of chest in midline.
- 2) One linear abrasion 1/4" long was present on left cheek.
- (3) One linear abrasion 1" long was present on left side of face below left eye.
- (4) One linear abrasion 1/4" long was present on upper part of occipital region.

Informant, Ranjit Yadav had filed written report on 29.04.2019 divulging the fact that while he was sitting at his house at about 5:00 PM, his daughter Ranju came running and shouting that Bhavesh, after nailing Rupesh, threw him in the pond, whereupon, he rushed and found Bhavesh, Bindeshwari Yadav, (petitioner) and Nandlal running therefrom. Paragraph-7 is the statement of Ranju wherein, she has pin pointed Bhavesh



to have nailed over the chest, head of Rupesh and then threw him in the pond. She, however, shown the presence of Bindeshwari Yadav, (petitioner) and Nandlal without any activity at their end.

Consequent thereupon, let petitioner, Bindeshwari Yadav be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Bhagalpur in Sanokhar PS Case No. 52/2019.

(Aditya Kumar Trivedi, J)

perwez

U		T	
---	--	---	--

