

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76963 of 2018

Arising Out of PS. Case No.-157 Year-2018 Thana- TEKARI District- Gaya

Md. Jamshad son of Md. Zeyauddin, Resident of Village- Laxmipur, P.S. Belaganj, District Gaya, Bihar. At present residing at 12, Rajiv Nagar Hattwada Road, Wasim Hotel, Ward No. 20, P.S.- Vidhajak Puri, Jaipur-302006.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

WITH
CRIMINAL MISCELLANEOUS No. 74743 of 2018

Arising Out of PS. Case No.-157 Year-2018 Thana- TEKARI District- Gaya

Md. Saddam son of Md. Harun @ Md. Hasan Rashid R/o. Village- Laxmipur, P.S. Belaganj District- Gaya

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 76963 of 2018)

For the Petitioner/s : Mr.Sudha Chandra, Advocate

For the Opposite Party/s : Mr. Kumar Ranjit Ranjan, APP

(In CRIMINAL MISCELLANEOUS No. 74743 of 2018)

For the Petitioner/s : Mr.Raj Dular Sah, Advocate

For the Opposite Party/s : Mr. Murlidhar, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 11-04-2019 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

The petitioners are languishing in custody for the
offence punishable under Section 302/34 of the Indian Penal
Code.



The informant is eyewitness of the occurrence. According to FIR, co-accused Md. Aftab assaulted with tangi at the head of the brother of the informant and petitioner Md. Saddam fired causing injury at the head of the brother of the informant. Other named accused persons throttled the deceased to death. The post mortem report reveals that the doctor has found ligature mark only on the person of the deceased besides one abrasion and one laceration as well as a contusion. The death was result of asphyxia. Considering the inconsistency between the medical report and prosecution allegation co-accused Md. Aftab was allowed bail by a coordinate Bench of this Court in Cr. Misc. No.77750 of 2018. The petitioner Md. Jamshad is not named in the FIR.

Learned counsel for the informant submits that in fact the petitioner's name is wrongly mentioned in the FIR as Md. Samsad and co-accused Sarfaraj has been refused prayer for bail by another coordinate Bench in Cr. Misc. No.68119 of 2018.

Contention of the petitioners is that that this development regarding identity of the accused during investigation is not acceptable for the reason that petitioner



Jamshad as well as Md. Samsad are sons of Md. Jewauddin. Hence, there is no confusion. If there would not have been any son of Jewauddin named as Md. Samsad the claim of the informant might have been examined. The petitioners are in custody since 07.08.2018 and 09.08.2018 respectively.

Considering the aforesaid fact, let the petitioners, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with Tekari (Panchananpur O.P.) P.S. Case No.157 of 2018, with following conditions:

- (a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.
- (b) The petitioners shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioners.

(Birendra Kumar, J)

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