

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.73396 of 2018

Arising Out of PS. Case No.-131 Year-2018 Thana- MUFFASIL District- Aurangabad

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Guddu Sao @ Nagendra Kumar Gupta Son of Sri Kedar Sao, Resident of
Village- Babhandih, P.S.- Aurangabad Mufassil, District- Aurangabad Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ramakant Sharma, Sr. Adv.

Mr. Santosh Kr. Pandey, Adv.

For the Opposite Party/s : Mr.Sri Damodar Prasad Tiwary

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 23-01-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner is languishing in custody since
17.09.2018 in connection with Aurangabad (Mufassil) P.S. Case
No.131 of 2018 registered for the offences punishable under
Sections 341, 323, 324, 308, 506/34, 302 of the Indian Penal
Code.

Prosecution case as per the ferdbeyan of Ramchandra
Singh is to the effect that on 31.07.2018 while he was playing
cards near his shop when all the accused persons including the
petitioner came and started abusing and on protest being made,
they started breaking eggs and bottles kept in the shop and
grappled. Thereafter, the informant left the place and after some



time, when he came back, he found that his shop has been damaged and in the mean time, the petitioner along with other co-accused persons again came and started assaulting the informant. It is further alleged that the petitioner gave knife blow on the informant and in order to save himself, when the informant tried to give a knife blow to the petitioner, then the petitioner grabbed that knife from the informant and gave him a knife blow, as a result, the informant received injuries and he became unconscious. Initially a case was registered under Section 308 and other provisions of the IPC but after ten days of occurrence, informant died. Section 302 of IPC was also added.

It is submitted by learned counsel for the petitioner that in fact, the informant assaulted the petitioner leading to registration of Mufassil P.S. Case No.130 of 2018 under Sections 341, 323, 324, 308, 500 and 379 IPC in which the petitioner's ferdbeyan was recorded at Sadar hospital on 31.07.2018 at 12.30 P.M., following which the present FIR was registered by the informant's side as a retaliatory measure. It is further submitted that even assuring the accusation to be true, it was the the informant who gave the knife below on the petitioner, in which he sustained injuries and therefore, no offence under Section 302 IPC is made out against the



petitioner. It is further submitted that there is no accusation of repeating the knife blow against the petitioner and the victim died after ten days of the alleged occurrence. Statement made in para 3 of the bail application that the petitioner has no criminal antecedent.

Learned counsel for the informant submits that there is specific accusation of assault against the petitioner. Post mortem report of the victim suggests that the victim died due to the head injury.

Considering the fact that even assuming the accusation levelled in first information report and the material collected during investigation coupled with the statement made in para 3 of the bail application to the effect that the petitioner is having no criminal antecedent and the period of custody, let the above named petitioner be enlarged on bail on furnishing bail bond of Rs.10000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Aurangabad (Bihar) in connection with Aurangabad (Mufassil) P.S. Case No.131 of 2018.

(Dinesh Kumar Singh, J)

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