

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3392 of 2018

Arising Out of PS. Case No.-154 Year-2013 Thana- JAMUI District- Jamui

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Kusheshwar Prasad Singh Son of Late Brahmadev Singh, Resident of Village-
Lakhapur, P.S. and District- Jamui.

... .. Petitioner/s

Versus

1. State of Bihar.
2. Jitendra Kumar, Son of Shyam Sundar Singh, Resident of Village- Akbarpur,
P.S.- Hilsa, District- Nalanda.

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr.Ram Vinay Pd. Singh, Advocate.
For the Opposite party no.2	:	Mr. Patanjali Rishi, Advocate.
For the State	:	Mr. Sanjay Kumar, APP.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

10 23-01-2019 Heard learned counsel for the petitioner, learned
counsel for the opposite party no.2 and learned APP for the
State.

This petition has been filed for cancellation of bail
granted in favour of opposite party no.2 Jitendra Kumar on
08.11.2017 with the case that the Opposite Party No.2 Jitendra
Kumar who happens to be Officer-in-charge of the Police
Station Jamui had brutally assaulted the deceased Munna Singh
along with other accused persons taking him on police remand
which proved fatal. He was enlarged on bail by this Court vide
order dated 08.11.2017 on the misrepresentation and making
wrong submission that the deceased Munna Singh was taken on



police remand on 20.06.2013 and finally remanded in the jail custody on 22.06.2013 and at the time of receiving the deceased in the jail, the jail doctor had examined him and found him medically fit which goes to rule out assaulting the deceased by the opposite party no.2.

It is submitted on behalf of the petitioner that the deceased Munna Singh was taken into police custody on 20.06.2013 and at the time of his remand in the police custody, learned Magistrate had directed the Jail Superintendent, Jamui to get the victim examined before handing and receiving back by the jail doctor and file a report in this regard to the court. But no such medical examination report has been filed by Jail Superintendent, Jamui. It is further submitted that immediately after taking back in jail custody on 22.06.2013 jail inmates noticed him brutally assaulted by stripping off his attire and then they made din in the jail. Thereafter, victim was sent to Sadar Hospital, Jamui for medical examination and treatment and from there he was sent to PMCH, Patna and during the course of treatment, he succumbed in PMCH on 01.07.2013 due to injuries inflicted to him in the police custody by opposite party no.2 in association of his colleagues. Citing order dated 22.07.2013 passed by the learned Magistrate Jamui in Jamui



P.S. Case No. 95 of 2013, he has further submitted that learned Magistrate taking cognizance of brutally assaulting the victim during the police remand and giving false medical report at the time of taking back in jail custody on 22.06.2013 had issued show cause to Dr. Arun Kumar Singh, Sadar Hospital, Jamui as well as Dr. Syed Naushad Ahmad, In charge Jail doctor, Jamui as to under what circumstances certificate of fitness of the victim was given by him despite been brutally assaulted during police custody and under what circumstances he was taken back in jail custody from the police remand without his medical examination. He has also issued Show cause to the opposite party no.2 Jitendra Kumar as to why the victim Munna Singh was not produced before the court at the time of remanding to jail custody. There is no material on record regarding assaulting the deceased in the jail custody. Aforesaid facts and circumstances eloquently indicate that the victim Munna Singh was brutally assaulted by opposite party no.2 Jitendra Kumar and his associates by taking him on police remand and then he was sent back to jail custody without medically examining by the jail doctor Dr. Syed Naushad Ahmad, Incharge Jail Doctor and opposite party no.2 taking the doctor in collusion obtained false and frivolous certificate regarding fitness of the victim and



concealing the aforesaid material aspects of the case and misrepresenting the court has obtained bail order in his favour.

It is submitted by learned counsel for the opposite party no.2 that the victim was taken on police remand for two days i.e. from 20.06.2013 to 22.06.2013. On 22.06.2013, he was sent back to jail and jail doctor after examining him has given certificate of his fitness. Citing the gate register of the jail, Jamui, he has submitted that the victim was sent to police custody on 20.06.2013 along with Sub Inspector Budhdeo Paswan and was later on taken back in jail custody at 12:05 PM on 22.06.2013 by the said S.I. Budhdeo Paswan and he was found medically fit by the Jail doctor at the time of his taking back in the jail custody.

From the deposition of the Dr. Dhirendra Prasad Singh examined in Sessions Trial No. 280 of 2016 summoned by this Court, it appears that the medical board had examined the victim on 22.06.2013 at 06:35 PM in the Sadar Hospital, Jamui and had found multiple bruises, bilateral subconjunctival Hemorrhage, abrasions, complain of pain and tenderness and diffused swelling on various parts of his person such as both soles, arm, ankle, hips, chest and complain of pain and tenderness and diffused swelling of right thumb with blackening



of nail of right thumb.

In the facts and circumstances of the case and from perusal of the documents referred above, it appears that the victim Munna Singh has sustained several injuries on his person including subconjunctival Hemorrhage and blackening of nail which was found by the medical board at 06:35 PM on 22.06.2013, though victim was sent back to the jail on the said date at 12:05 PM. But after remand of the victim in the jail custody the inmates of the jail had made uproar seeing the injuries on his person stripping off his attire. Then he was medically examined by the medical board at Sadar Hospital, Jamui and from there he was referred to PMCH where he was also medically examined and was admitted in the PMCH, but he succumbed to his injuries during the course of treatment.

Learned Magistrate has also taken cognizance of the assault made to the victim during the course of his police remand and has issued show cause to the doctors for submitting fitness certificate and also to the opposite party no.2 for not producing the victim before the Court at the time of sending back to the jail on 22.06.2013. Aforesaid aspects of the case give impression that the aforesaid bail order has been obtained by concealing the aforesaid material aspects of the case and



misrepresenting the court.

Hence in the facts and circumstances of the case, bail granted to the opposite party no.2 Jitendra Kumar vide order dated 08.11.2017 passed in Cr. Misc. No. 52600 of 2017 is hereby cancelled and this petition is accordingly allowed.

Learned counsel for the opposite party no.2 has requested to grant four weeks time to surrender before the court below to enable him to take recourse of the remedy available, if so advised. Accordingly, Opposite party no.2 is directed to surrender before the court below by 25.02.2019 failing which learned lower court shall take all steps to ensure his procurement.

(Prakash Chandra Jaiswal, J)

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