

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.75017 of 2018

Arising Out of PS. Case No.-50 Year-2018 Thana- GHOGHARDIHA District- Madhubani

Md. Guljar Son of Md. Jakir, Resident of Village Amahi, P.S.- Ghoghardiha,
District- Madhubani.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramchandra Jha Raman

For the Opposite Party/s : Mr. Harendra Prasad

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 24-01-2019 Heard learned counsels for the parties.

The petitioner is languishing in custody since 11.6.2018 in a case registered for the offences punishable under Sections 147,148,149,448,323,302,380,504 and 506/34 of the I.P.C.

The prosecution case as per the Fardbeyan of Md. Salim recorded by the SHO, Ghoghardiha on 25.5.2018 at 8.30 A.M. is to the effect that on 24.5.2018 at 7.30 P.M., due to previous enmity, the agnates of the informant, namely, Md. Tajmuddin, Md. Usman, Md. Jamir, Amina Khatoon, Sabila Khatoon, Nisrat Khatoon and the petitioner came armed with lathi and iron rod and started abusing. On protest being made by the mother of the informant Hazara Khatoon, co-accused Tajmuddin, Md. Usman, Md. Jimal and the petitioner caught hold of the mother of the informant and pushed her on the ground. Thereafter, they assaulted her brutally with fists and slaps, lathi and iron rod. When the informant, his sister and brother's wife Sakila came to



rescue, they were also being assaulted by co-accused Amina Khatoon, Sabila Khatoon and Nisrat Khatoon with bamboo stick. It is also alleged that co-accused Md. Jamir and Md. Tajmuddin took out cash and jewellery from the box of the informant. Ultimately, mother of the informant succumbed to the injury.

It is submitted by learned counsel for the petitioner that as per the FIR itself, the accusation has been levelled against four persons in the background of land dispute. The post mortem report reflects swelling at the right occipital region and bruises on the both sides of neck. On dissection, no external injury has been found. Hence, the accusation is not being corroborated by the medical opinion as the accusation is that all the four accused persons including the petitioner brutally assaulted the informant's mother with lathi and iron rod. It is further submitted that the cause of death opined by the doctor as asphyxia due to brutal assault. Moreover, there is no accusation of throttling.

Learned APP submits that there is specific accusation of assault against the petitioner.

Considering the accusation not being corroborated by the medical opinion, coupled with the statement made in



paragraph 3 of the petition that the petitioner is not having any criminal antecedent. and the period under custody, let the petitioner above named be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Jhanjharpur in connection with Ghoghardiha P.S. Case No.50 of 2018.

(Dinesh Kumar Singh, J)

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