

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No. 425 of 2020**

Arising Out of PS. Case No.-125 Year-2019 Thana- KOCHADHAMAN District- Kishanganj

Abu Nasar, Male, aged about 45 years, Son of Late Asabuddin, Resident of  
Village - Gadgaon (Garhgaon), P.S.- Kochadhaman, Distt- Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Radha Mohan Singh, Advocate  
For the Opposite Party/s : Mrs.Nirmala Kumari

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL ORDER**

4      29-05-2020

Heard the parties through the virtual court proceeding.

The petitioner seeks bail in connection with Kochadhaman P.S. Case No. 125 of 2019 registered for the offences punishable under Sections 147, 148, 149, 323, 324, 307, 302, 341 and 325 of the Indian Penal Code.

The prosecution case, in short, is that on 18.05.2019 at about 5:45 p.m. the informant saw that his elder brother Afirudding was returning home by his tempo and daughter of Matiur Rahman was cutting crop on a disputed land near house of Matiur Rahman. When Afirudding also saw that daughter of Matiur Rahman was cutting the said crop, he stopped his tempo and parked it near the road and moved towards home. In the meantime, the petitioner accused person and other co-accused gathered with sword, barcha & sharp weapons in their hands and surrounded to the informant's brother and started assaulting due to which he sustained injury and in the way of treatment, he died.

Learned counsel for the petitioner submits that from



perusal of the First Information Report, it appears that there is allegation against Asger Alam that he has given sword blow on the stomach of the Afirudding and thereafter Abu Nasar (petitioner) has assaulted with iron balam (rod) to the deceased on the head by which his brother got serious injury and during course of treatment, he died. Learned counsel for the petitioner further submits that from perusal of postmortem report which clearly falsify the allegation of the informant. In the F.I.R., the informant had alleged that this petitioner had assaulted on head with iron road and Asgar Alam has given sword blow on the stomach of the deceased. But the doctor has found insized on the head and on the stomach, so far as the injury no.2 is concerned is caused by hard and blunt substance. He further submits that there is matter of fact that genesis of present case is land dispute and according to prosecution, co-accused have assaulted the brother of the informant and during course of taking away for treatment, he died merely due to same reasons petitioner is also made accused in this case due to malicious motive of the informant. He further submits that the petitioner is in jail custody since 19.05.2019.

In the facts and circumstances of the case, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Kishanganj in connection with Kochadhaman P.S. Case No. 125 of 2019, subject to the following conditions :

- (1) One of the bailors will be his own blood relative, preferably, father, mother, brother, sister and/or his wife.
- (2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.



(3) The petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

**(Anjani Kumar Sharan, J)**

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