

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3034 of 2020

Arising Out of PS. Case No.-423 Year-2019 Thana- FATUHA District- Patna

CHANDRADEV YADAV @ CHUTAHABA Son of Vrij Nandan Ray @ Brij
Gope, Resident of Village- Maksudpur, P.S.- Fatuha, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anuj Kumar

For the Opposite Party/s : Mrs.Nirmala Kumari

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 30-06-2020 Heard Mr. Yogesh Chandra Verma, the learned senior
counsel for the petitioner, and the learned APP.

The matter has been taken up through video
conferencing.

The petitioner seeks bail in Fatuha P.S. case No.
423/2019 registered u/s 341, 323, 324, 307 of the IPC. Later on
Section 302 of the IPC was added.

The father of the deceased in his fard bayan disclosed
that his son Ranvijay Kumar went to the house of his sister on
her call that his brother-in-law was quarreling with her. Later on
the informant came to know on telephone that his son was shot
by the petitioner while he was pacifying the quarrel.

The learned senior counsel for the petitioner submits
that informant is not an eye witness of the occurrence. The



informant did not disclose in his fard bayan that who informed him about the occurrence. The petitioner is non else than brother-in-law of the deceased. The relationship between the deceased and the petitioner was very much cordial. Some scuffle in order to pacify the dispute might have taken place. It is further submitted that the injured died after one month of the occurrence. The doctor did not give any opinion with regard to nature of the injuries as the deceased underwent surgery. It is further submitted that Lalita Devi, sister of the deceased, is only eye witness of the occurrence but even she did not disclose the fact who fired on her brother. Lalita Devi sworn affidavit and disclosed that she is not an eye witness of the occurrence as she did not see who fired on her brother. It is submitted that there is no eye witness of the occurrence. The deceased was firstly brought to Primary Health Center from where he was referred to NMCH and thereafter referred to PMCH but deceased later on admitted in a private hospital where he succumbed to the injuries and it may be a case of medical negligence as the deceased died after one month of the occurrence. It is further submitted that petitioner is in jail for about one year. No case u/s 302 of the IPC is made out and at best offence u/s 304-II of the IPC may be made out. It is further submitted that Supreme Court has held in



a very recent judgement that irrespective of any allegation the bail should be rule and rejection is exception. Once charge sheet is submitted and if there is no chance of tampering with the evidence, the accused should be granted bail and, thus, the petitioner deserves bail.

The learned APP, however, opposed the prayer for bail.

Perused the FIR and the case diary.

Of course, the informant, father of the deceased, is not an eye witness of the occurrence but he lodged the case on the basis of information received on telephone. The police took the statement of Lalita Devi, sister of the deceased. The deceased had gone to the house of his sister on her call that her husband was quarreling with her. Lalita Devi disclosed that while her brother was pacifying the matter there was sound of firing and his brother having received injuries fell down on the ground. Other witnesses, namely, Kunal Kumar and Ramji Yadav have also stated the same facts. Admittedly, the deceased died of fire arm injuries. The deceased received injuries on his back. It appears that Lalita Devi has categorically stated in her statement that her brother tried to pacify the matter and in the meantime firing was made and her brother fell down on the ground. There



was none at the place of occurrence except Lalita Devi and her husband, the petitioner, who were quarreling with each other and to pacify the quarrel the deceased had gone there.

Taking into consideration the facts aforesaid, I am not inclined to enlarge the petitioner on bail, at this stage. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J)

BKS/-

U		T	
---	--	---	--

