

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22254 of 2020

Arising Out of PS. Case No.-259 Year-2019 Thana- MOTIHARI TOWN District- East
Champaran

MD. SALIM, Son of Late Rafique, Resident of Village - Miscot, P.S.-
Motihari Town, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-08-2020 The Court proceeding has been conducted through virtual
mode.

Since the Court is not functional in physical mode due to
the present pandemic, Covid-19, the matter has been listed with
defects.

Learned counsel for the petitioner undertakes to remove
the defects within a period of four weeks on resumption of physical
court proceeding.

In case of non-removal of the defects within the
undertaken period, the office will place the matter before the bench.

Heard learned counsel for the petitioner and Mr. J. N.
Thakur, learned APP for the State.

The petitioner has preferred the present application for
grant of bail in a case registered for the offences punishable
under Sections 147, 148, 149, 323, 324, 326, 307, 302 and 506



of the Indian Penal Code.

The prosecution case as per the written report of Sanjay Kumar, submitted before the S.H.O. Motihari Town Police Station is to the effect that on 22.04.2019 at 9.00 P.M., the informant along with his family members were in his house. In the meantime, the cousin brother of the informant, Ramjee Kumar came and knocked the door of the informant. When the informant opened the door, he found all the seven accused persons, Raj Kumar @ Raju, Ramjee Kumar, Sagar Kumar (the petitioner), Sushila Devi, Bablu Kumar, Sanjay Rai along with 3-4 unknown at the door and they all were armed with knife and iron rod. It is alleged that on the order of Raj Kumar @ Raju, co-accused, Ramjee Kumar, Sagar Kumar and Sushila Devi started assaulting with knife to the informant which caused injury on the head of the informant and when the brothers of the informant, Ajay Kumar, Vijay Kumar and mother, Nirmala Devi came to rescue, then all the accused persons assaulted them with knife and iron rod and due to receiving of knife injury, Ajay Kumar died on spot whereas Vijay Kumar and Nirmala Devi were received severe injuries. On alarm being raised, the nearby people came and subsequently, the injured were taken to Rahmaniya hospital.



It is submitted by learned counsel for the petitioner that the Raj Kumar @ Raju, Ramjee Kumar, Sagar Kumar and Sushila Devi were armed with knife and they are alleged to have assaulted the informant with knife but the injury report of the deceased Ajay Kumar reflects that he has received two penetrate wounds caused by knife whereas injury report of Vijay Kumar suggests that he also received three stabbed injuries while Nirmala Devi received only swelling injury. The accusation of assault is not specific against the petitioner. The accusation is omnibus and general. It is further submitted that seven accused persons are alleged to have made assault but only two injuries have been found on the body of the deceased whereas other two persons injured received three and one injury respectively. It is further submitted that considering the omnibus and general accusation, the co-accused Sushila Devi and Ramji Kumar who were alleged to have armed with knife have been granted bail vide order dated 20.03.2020 passed in Criminal Miscellaneous No. 2567 of 2020 by a co-ordinate bench of this Court. The petitioner is languishing in custody since 13.01.2020 and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.



Learned APP for the State submits that the petitioner is named in the FIR as an assailant though there is no specific accusation of making assault with knife against the petitioner. Moreover, he does not controvert the fact that the person who were alleged to have made assault with knife have been granted bail.

Considering the general and omnibus accusation, the fact that the investigation has already been concluded and the case of the petitioner is at better footing than of the co-accused person, who have already been granted bail by a Co-ordinate bench of this Court coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned CJM, East Champaran at Motihari, in connection with Motihari Town P.S. Case No. 259 of 2019.

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by



such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned CJM, East Champaran at Motihari, in connection with Motihari Town P.S. Case No. 259 of 2019.

The learned Court below will further be at liberty to extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the present application stands disposed of.

(Dinesh Kumar Singh, J)

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