IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28188 of 2020

Arising Out of PS. Case No.-176 Year-2019 Thana- MADANPUR District- Aurangabad

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KAPIL YADAV Son of Late Bishu Yadav @ Biku Yadav Resident of Village - Banaukhar, (Tola - Munshi Bigha), P.S. - Madanpur, District - Aurangabad

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Sanjay Kumar, Advocate
For the Opposite Party/s : Mr.B.N.Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

4 11-12-2020 Heard both sides through Video Conferencing.

The petitioner seeks bail in Madanpur P.S. Case No.176 of 2019 registered under Sections 147, 148, 149, 506, 504, 307 and 302 of the Indian Penal Code and under Section 27 of the Arms Act.

The informant, Shashi Kumar @ Shashikant Kumar, son of the deceased alleged that while he was returning after attending the call of nature and when he reached near Banaukhar More, the informant saw Sudhir Yadav, Puranjay Yadav, Dhananjay Yadav, Mritunjay Yadav, Arunjay Yadav, Arjun Yadav, Kapil Yadav(the petitioner), Anil Yadav, Mantu Yadav were planting paddy sapling in his field. All were armed with khanti, dagger and stick. Manoj Sharma, father of the informant was asking but in the meantime, Sudhir Yadav and

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Mritunjay Yadav abused his father and started assaulting him. Kapil Yadav(the petitioner) is ordered to have killed and in the meantime, Arunjay Yadav fired at Manoj Sharma but the firing did not hit him. Mantu Yadav, Anil Yadav and Dhananjay Yadav assaulted his father with stick, khanti and again in the meantime, Puranjay Yadav fired which hit in the head of his father. It is further alleged that when the informant started fleeing away, Mritunjay Yadav, Kapil Yadav(the petitioner), Anil Yadav and Puranjay Yadav caught him and brutally assaulted him with khanti and danda and he was badly injured. They were referred to Anugrah Narayan Medical College, Gaya. The father of the informant succumbed to the injury.

Learned counsel for the petitioner submits that petitioner is order giver. Petitioner is not alleged to have assaulted the father of the informant. Petitioner and three others namely, Mritunjay Yadav, Anil Yadav and Puranjay Yadav are alleged to have assaulted the informant but the informant did not receive any injury. The case diary is also called for but the injury report of the informant is not incorporated in the entire case diary. It is further submitted that there is a counter version being Madanpur P.S. Case No.175 of 2019. The aforesaid case was registered on the fardbeyan of Ajay Yadav who alleged that

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while he was uprooting the paddy sapling, Manoj Sharma and his two sons including Shashikant Sharma came there. Manoj Sharma fired which hit Sudhir Yadav on his chest. The informant is also alleged to have fired which hit Mantu Yadav on his chest. The informant and others chased. Shashikant managed to flee away but Manoj Sharma got injury. It is further submitted that from perusal of the post-mortem report, it would appear that Manoj Sharma died of different injuries caused by hard and blunt object. No firearm injury was found on the body of Manoj Sharma. Mantu Yadav, Arjun Yadav and Mritunjay Yadav have already been granted bail by different co-ordinate Bench of this Court vide order passed in Cr. Misc. No.2848 of 2020, Cr. Misc. No.73870 of 2019 and Cr. Misc. No.19001 of 2020. The case of the petitioner stands on better footing as they are also alleged to have assaulted the deceased with danda and khanti but there is no allegation of assault against the petitioner on the deceased by any weapon and the informant did not receive any injury as no injury report is incorporated in the entire case diary.

Learned A.P.P. opposed the prayer for bail.

It appears that the petitioner is named in the F.I.R. but only allegation against the petitioner is he is ordered to have

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killed Manoj Sharma, the father of the informant on which Puranjay is said to have fired which hit in the head of Manoj Sharma. Arunjay is also said to have fired but his shot did not hit Manoj Sharma. Mantu Yadav who is alleged to have assaulted the deceased with khanti and danda but he has already been granted bail.

Taking into consideration the facts aforesaid, let the petitioner, above named, be enlarged 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 C.J.M., Aurangabad in connection with Madanpur P.S. Case No.176 of 2019.

(Prabhat Kumar Jha, J)

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