

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28892 of 2020

Arising Out of PS. Case No.-593 Year-2019 Thana- BRAHMPUR District- Buxar

MD. AKBAR Son of Noorhasan Resident of Village - Raghunathpur, P.S.-
Brahmpur, District – Buxar. Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar

For the Opposite Party/s : Mrs. Anita Kumari Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 18-12-2020 The learned counsel for the petitioner, the learned A.P.P.

for the State Mrs. Anita Kumari Singh and learned counsel for
the informant Shri Kamaldeo Sharma were heard at length day
before yesterday and today the present case has been listed ‘For
Orders’.

The petitioner seeks regular bail in connection with
Brahmpur P.S. Case No. 593 of 2019 for the offence punishable
under Sections 302/34 of the Indian Penal Code.

The case of the prosecution in brief is that the father of
the informant had constructed a house at Raghunathpur and was
living there with his family as also used to engage in some petty
business and about a year back, the father of the informant had
given paddy, amounting to a sum of Rs. 1,75,000/- to the
petitioner, whereafter he used to ask him for his money,
however, the petitioner used to somehow evade paying money,
however, about a week back, the petitioner had given a cheque



to the informant for a sum of Rs. 1,75,000/- which was dated 20.12.2019. It is further alleged that when the father of the petitioner had gone to the bank to encash the cheque, it transpired from the bank that there was not sufficient funds in the account of the petitioner, whereafter on 21.12.2019 the informant along with his father had reached at the house of the petitioner at about 7:00 P.M. where the accused persons including the petitioner herein started abusing them. It is further alleged that the accused persons had then started assaulting the father of the informant resulting in him falling on the ground and his subsequent death.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and is languishing in custody since 01.02.2020. The learned counsel for the petitioner has further submitted that the police has submitted charge sheet under Section 304 of the Indian Penal Code, hence it cannot be said that the petitioner or for that matter any other accused persons had the intention of killing the father of the informant which further stands corroborated from the postmortem report inasmuch as only one minor external injury has been found on the body of the deceased i.e. small abrasion on the face just below the left lower



eyelid and the cause of death is haemorrhage in brain due to injury caused by hard and blunt substance, which in any view of the matter could have been caused on account of the deceased falling on the ground, hence it is submitted that a lenient view may be taken and the petitioner be granted the privilege of bail.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having considered the submissions made by the learned counsel for the parties and taking into account the materials available on the record as also those available in the case diary, it appears from the materials collected during the course of investigation including the postmortem report, that there was no intention on the part of the petitioner to kill the deceased, however, on the spur of the moment, the incident appears to have occurred, hence considering the fact that the police has submitted charge sheet under Section 304 IPC, I deem it fit and appropriate to grant benefit of doubt to the petitioner herein, for the purposes of grant of bail, however, subject to certain conditions.

Accordingly, the petitioner, above named, is directed to 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 learned Chief Judicial Magistrate, Buxar
in connection with Brahmpur P.S. Case No. 593 of 2019.

It is further directed that the petitioner would mark his
attendance before the Officer In-Charge of the concerned Police
Station at 10:00 A.M. on every Monday of the week and in the
event of his failure to do so on two consecutive occasion, the
present privilege of bail shall stand cancelled automatically and
the petitioner shall be taken into custody forthwith.

(Mohit Kumar Shah, J)

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