

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75618 of 2019**

Arising Out of PS. Case No.-190 Year-2018 Thana- SHAHKUND District- Bhagalpur

Md. Noor @ Md. Noor Alam, aged about 33 years, Male, son of Md. Sanjoor,
resident of village- Rampur, P.S.- Tarapur, District- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abdul Mannan Khan, Advocate
		Mr. Binay Kumar, Advocate
For the Opposite Party/s	:	Mr. Md. Arif, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 17-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Abdul Mannan Khan, learned counsel for the petitioner and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with Shahkund (Sajour) P.S. Case No.190 of 2018 dated 26.08.2018 instituted under Sections 302/34 of the Indian Penal Code.

4. The allegation against the petitioner is of inflicting knife blow on the deceased husband of the informant.

5. Learned counsel for the petitioner submitted that the allegation is against seven persons and against Md. Azim, co-accused, it is of giving knife blow in the abdomen, which has been corroborated in the postmortem report. It was submitted



that though there is no mentioning of the part on which the petitioner had inflicted knife blow, but in the postmortem one other knife injury has been found on the chest, which is muscle deep and simple in nature. Learned counsel submitted that there is previous enmity between the petitioner and family of the deceased as he was one of the witnesses in the case filed by his sister-in-law (*saali*), who was married to the nephew of the deceased. Learned counsel submitted that the petitioner is in custody since 15.05.2019. It was submitted that the informant and other witnesses have not stated as to on which part of the body the petitioner had inflicted injury by knife. Learned counsel submitted that both the eye witnesses have stated that the petitioner had also inflicted second knife blow in the abdomen.

6. Learned APP, from the case diary, submitted that there is direct allegation against the petitioner of also inflicting a knife blow and, thus, two knife injuries being found on the deceased and the petitioner being the person, who had inflicted the second knife blow, the same was obviously on the chest, and which clearly indicates that his intention was to kill and even if the knife did not go deep inside, the fact that on the chest muscle deep injury has been found makes the petitioner equally



liable for the consequences. Learned counsel submitted that the informant, who is the wife of the deceased, and one other person are eye witness to the incident. It was further submitted that the allegations are fully corroborated by the postmortem report. It was submitted that it is irrelevant as to whether the petitioner had hit in the stomach or the chest for the reason that specifically against the co-accused, both the eye witnesses, have stated that he had given the first blow, which was in the stomach, and thereafter it is stated that the petitioner also inflicted a knife blow, though, not mentioning which accused has given which blow, but since only against two accused, including the petitioner, the allegation is of inflicting knife injuries and two wounds have been found, it irrelevant as to who had hit on which part as there is no other accused, who is said to have inflicted any knife injury.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

J. Alam/-

AFR/NAFR	
U	
T	

