

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73700 of 2019

Arising Out of PS. Case No.-33 Year-2017 Thana- NAUGACHIA District- Bhagalpur

MD. FAIYAZ @ MD. FAIYAZ ALAM Son of Md. Maksud @ Md. Maksood
Alam @ Md. Maksud Alam Resident of Village - Ujani, P.S.- Naugachia,
Distt.- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Yadav, Adv.

For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 18-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsels for the petitioner and the learned APP for the State.

The petitioner has renewed the prayer for bail in a case registered for the offence punishable under Section 302/34 of the Indian Penal Code.

The prosecution case, as per the fardbeyan of Md. Ashique recorded by Sanjay Kumar Sudhanshu-Inspector-cum-S.H.O., Naugachia Police Station is to the effect that on 22-02-2017 at 5.00 P.M., when the informant was reaching home to take food, he saw, his cousin Md. Faiyaz, uncle Md. Maksood and aunt, Anguri Khatoon coming out of the house



having bat in the hand of co-accused, Md. Faiyaz. Thereafter, the informant went inside his house and found his mother dead and father in injured condition. The father conveyed the informant that Md. Faiyaz, Md. Maksood and his family members have assaulted them. Thereafter, the father also died. The two younger brother of the informant, namely, Ishak and Rihan who concealed themselves to save their life came out and conveyed the informant that initially there was a quarrel between the parents of the petitioner and the informant and thereafter, the petitioner came having bat in his hand and started assaulting the parents of the informant indiscriminately.

It is submitted by learned counsel for the petitioner that the informant is not an eye witness to the occurrence and since 2018, no witness have been examined. The report of the learned 3rd ADJ, Naugachia, Bhagalpur dated 8-04-2020, suggests that out of 9 witnessed, only four witnesses have been examined and due to the present pandemic, Covid-19 since the Court proceeding is not functional in physical mode, hence the trial is not likely to be concluded in near future. It is further submitted that the petitioner is a mental abraded person. A statement has been made in paragraph no.3 of the petition that apart from the present case, the petitioner is accused in one



other case, but he is on bail in that case.

Learned APP for the State submits that the accusation is specific against the petitioner.

Considering the accusation being specific against the petitioner and in view the fact that two witnesses have seen the petitioner assaulting the parents of the informant, this Court is not inclined to revised the earlier order dated 19.12.2018, passed by a Co-ordinate bench of this Court in Criminal Miscellaneous No. 67762 of 2018.

Accordingly, the prayer for bail of the petitioner in connection with S. T. No. 491 of 2017/ CIS-133 of 2017, arising out of Naugachia P.S. Case No.33 of 2017, pending before the learned 3rd ADJ, Naugachia, Bhagalpur is rejected.

However, with regard to mental condition of the petitioner, the petitioner is at liberty to take recourse to the provisions as incorporated under Section 328 Chapter XXV of Code of Criminal Procedure, 1973.

However, it is expected from the trial Court to expedite the trial.

(Dinesh Kumar Singh, J)

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