

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85912 of 2019

Arising Out of PS. Case No.-67 Year-2019 Thana- KATHAIYA District- Muzaffarpur

Chandan Kumar, Son of Late Maheshwar Chaudhary @ Late Maheshwar Prasad Singh, Resident of Village-Patti Aswari, P.S.-Kathaiya, District-Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr.Sanjay Kumar @ S.K., Advocate
For the State	:	Mr.Rajendra Nath Jha, APP
For the Informant	:	Mr. Upendra Kumar Singh, Adovcate

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 08-06-2020 The matter has been taken up through virtual Court proceeding.

Heard Mr. Sanjay Kumar @ S.K., learned counsel for the petitioner, Mr. Rajendra Nath Jha, learned APP for the State and Mr. Upendra Kumar, learned counsel appearing for the informant.

The present application has been preferred on behalf of the petitioner for grant of bail in connection with a case registered for the offences punishable under Sections 341, 447, 323, 307, 379, 504 and 506/34 of the Indian Penal Code. Subsequently, Section 302 of the IPC was also added.

The prosecution case, as per the fardbeyan of Pramod Choudhary recorded by A.S.I., Lalan Kumar Jha on 30.04.2019



at 3.00 P.M. at SKMCH, Muzaffarpur, is to the effect that on 27.04.2019 at 4.30 P.M. the informant was surrounded by the petitioner and co-accused Dhiraj Kumar in the background of the fact that the informant was a charge sheeted witness in a case registered against the accused persons. They were armed with iron pipe. It is alleged that the petitioner assaulted with iron pipe on the head of the informant and thereafter, both the petitioner and co-accused brutally assaulted the informant. It is also alleged that the petitioner also snatched a gold chain from the informant and subsequently, the informant died.

It is submitted by learned counsel for the petitioner that for the alleged occurrence of 27.04.2019, the fardbeyan was recorded on 30.04.2019, i.e., after three days of the occurrence, consequently, the FIR was registered on 04.05.2019. The informant died after 10 days of the alleged occurrence. The postmortem report suggests that the informant had some surgical interference as injury no. 4 has been described as surgical wound. Apart from the surgical injury, the informant found to have received three other injuries and the postmortem report reflects cause of death due to the said injuries, hence, it cannot be conclusively said that due to the injury caused by the petitioner, the informant died. The informant died after ten days



of receiving of injury on 07.05.2019. It is further submitted that co-accused Dhiraj Kumar has been granted bail by Co-ordinate bench of this Court vide Cr. Misc. No. 85980 of 2019 and investigation has already been concluded. The petitioner is languishing in custody since 11.06.2019. The petitioner is accused in one another case, being Kathaiya P.S. Case No. 12 of 1987 registered under Sections 341, 323, 447, 504 and 506/34 of the Indian Penal Code.

Learned APP for the State and learned counsel for the informant submit that the accusation of assault is specific against the petitioner and the informant died due to the injury caused by the petitioner.

Considering the fact that there is no explanation with regard to surgical injury reflected in postmortem report, delayed lodging of the case, informant died after ten days of the occurrence, moreover, co-accused Dhiraj Kumar, who is also alleged to have assaulted the informant, has been granted bail by Co-ordinate bench of this Court and investigation being concluded, 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 Judicial Magistrate, Ist Class, Muzaffarpur in connection with Kathaiya



P.S. Case No. 67 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 upon 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 Judicial Magistrate, Ist Class, Muzaffarpur in connection with Kathaiya P.S. Case No. 67 of 2019.

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

(Dinesh Kumar Singh, J)

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