

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15099 of 2021

Arising Out of PS. Case No.-627 Year-2020 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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ASHUTOSH KUMAR YADAV Son of Late Shivnandan Yadav Resident of
Mohalla - Rambagh, Near Mahavir Sthan, P.S. - Mithanpura, District -
Muzaffarpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Sandeep Kumar, Sr. Adv. Mr.Arvind Kumar, Adv.
For the Opposite Party/s :		Mr.Navin Kumar Pandey, APP
For the Informant	:	Mrs. Kalpana, Adv. Mr.Sumit Shekhar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 17-08-2021 Heard the parties through virtual court proceedings.

The petitioner seeks bail in connection with Muzaffarpur
Town P.S. Case No.627 of 2020, registered for the offence
punishable under Sections 302/34 of the IPC.

As per the prosecution case, father of the informant was
assaulted by the petitioner, his wife and one Rajiv Kumar due to
which he died in course of treatment. It is alleged that the
offence has been committed because his father has taken side of
other party of the petitioner in a panchayati.

It is submitted by learned Senior Counsel for the
petitioner that the petitioner is quite innocent and has not
committed any offence as alleged in the FIR. No offence as



alleged has ever taken place. The petitioner has been falsely implicated in this case. There is no specific overt leveled against the petitioner rather the allegations are general and omnibus in nature. The fact is that informant's father was a land Mafia, and he had greedy eye on the property of petitioner. The informant's father in collusion with brother-in-law of the petitioner, tried to grab the property of petitioner, due to which, some dispute arose and in the relevant time, informant's father along with his men was scuffling with petitioner and his wife. Seeing the indecent act of informant's father with a lady, mob gathered and committed *mar-pit* with him, due to which, he sustained injury and later on died. There is no eye-witness to the alleged occurrence. The petitioner has got no criminal antecedent as per para-3 of the bail application and has been languishing in custody since 05.10.2020.

Learned APP for the State and learned counsel for the informant vehemently opposed the bail petition by submitting that petitioner is the main assailant and he with the help of other co-accused assaulted the father of informant with some pointed iron substance, as a result of which, he sustained head injury and died. Learned counsel for the informant further submits that para-34 of the case diary is descriptions of C.C.T.V. footage,



which reveals that petitioner and his wife were present at the place of occurrence at the relevant time.

Considered the facts aforesaid and perused the case diary. Charge sheet has been submitted against the petitioner. There is no allegation of tampering of the evidence by the petitioner and considering that he has no criminal antecedent and is in custody for more than ten months, the above named petitioner is directed to be enlarged on bail, **after framing of the charge** on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Muzaffarpur, in connection with Muzaffarpur Town P.S. Case No.627 of 2020, subject to the following conditions:

(1) One of the bailors will be own close relative of the petitioner who will give on affidavit genealogy as to how he is relative to petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.



(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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