

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16527 of 2021

Arising Out of PS. Case No.-162 Year-2020 Thana- KOILWAR District- Bhojpur

RAKESH CHAUDHARY @ BOTAL CHAUDHARY Son of Late Nandu Chaudhary Resident of Village- Umerabad, P.S.- Arwal, District - Arwal at present address resident of Village - Pareo, P.S. - Bihta, District - Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Dr. Sanjay Kumar Singh
For the Opposite Party/s : Mr.APP.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 24-11-2021 Heard learned counsel for the petitioner and learned counsel for the informant and Sri Brajendra Nath Pandey, learned APP who assisted the court after perusing the case diary.

Petitioner seeks bail in connection Koilwar P.S. Case no. 162 of 2020 registered for the offence punishable under section 302/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the FIR, it would manifest that the informant alleges that while his son was guarding his field, accused persons came and tried to destroy the crop and accordingly, there was scuffle between the accused persons and son of the informant and it is alleged that Rakesh Choudhary (petitioner) inflicted stab injury while Rajesh Choudhary was



holding waist of the deceased and thereafter, it is alleged that Balram Choudhary who was guarding his pump nearby, he witnessed the occurrence. Learned counsel for the petitioner further submits that in the FIR it is alleged that this petitioner is the assailant and he stabbed the son of the informant who later died but during course of investigation, statement of Balram Choudhary is recorded at para 11 of the case diary and from perusal of the same, it would manifest that he does not claim to be an eye-witness of the occurrence. Further, learned counsel submits that even statement of mother of the deceased was recorded at para 39 of the case diary wherein she has given a different version of the occurrence inasmuch as in the FIR it is alleged that petitioner along with others was trying to damage the crops as a result of which occurrence took place but mother of the deceased in her statement before the police has stated that there was dispute with regard to selling of liquor as a result of which this occurrence took place. Learned counsel for the petitioner next submits that co-accused Rajesh Choudhary has been granted bail vide order dated 27.8.2021 in Cr. Misc. no. 11278/2021.

Learned counsel for the informant vehemently opposed the prayer for bail and it is submitted that co-accused



Rajesh Choudhary has been granted bail on the ground that he was not assailant when this petitioner is alleged to be the main assailant as such allegation against this petitioner is more serious in nature than what is alleged against co-accused Rajesh Choudhary.

Learned counsel for the petitioner submits that allegation against this petitioner is based on the fact that Balram Choudhary in the FIR claimed to be eye-witness whereas in course of investigation Balram Choudhary before police has categorically stated that he has not witnessed the occurrence, further, mother of the deceased has also given a different version of the occurrence, this in itself demonstrates that this petitioner along with Rajesh Choudhary came to be implicated merely because there was dispute as no one had seen the occurrence.

Considering the facts that petitioner is in jail custody since 08.05.2020 and charge sheet has been submitted and Balram Choudhary is not an eye-witness, the petitioner is directed to be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Ara in Koilwar P.S. Case no. 162 of 2020 provided charge has been framed in the event, charge has not been framed then petitioner



would be released from custody after charge is framed.

(Satyavrat Verma, J)

s.hassan/-

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