

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29942 of 2021

Arising Out of PS. Case No.-349 Year-2020 Thana- SITAMARHI District- Sitamarhi

Md Shahnawaz Son of Md. Mustafa (Wrongly described in the FIR as son of Md. Ibrahim), Resident of Mehsaul East, Ward No.6, P.S.- Sitamarhi, District- Sitamarhi.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate

For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 25-11-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with Sitamarhi P.S. Case No. 349 of 2020 instituted for the offences under Sections 341, 323, 324, 307, 504, 302 and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is in custody 07.11.2020, charge-sheet has been submitted and he has got one criminal antecedent as mentioned in paragraph '3' of the bail application.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that the informant alleges that this petitioner gave iron



rod blow on chest of Md. Chand, the son of the informant and Md. Naushad assaulted Md. Chand with iron rod on the head.

Learned counsel for the petitioner submits that from bare perusal of the impugned order it would manifest that the learned court below has also recorded that death of Md. Chand was due to hemorrhage and shock leading to C/R failure as a result of head injury caused by hard and blunt substance. He further submits that from perusal of the injury and post-mortem report of the deceased it would amply demonstrate that the allegation as alleged in the F.I.R. does not get corroborated as the cause of death was due to assault by iron rod on head. Further, the learned counsel submits that the post-mortem report also records about external examination of the deceased wherein it has been recorded "both eyes closed, mouth closed, swelling over right side of forehead, size 3" x 2" abrasion over right cheek, size 1" x ½".

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner.

Considering the fact that the petitioner is in custody since 07.11.2020, charge-sheet has been submitted in the case and the allegation in the F.I.R. does not get corroborated from the post-mortem report of the deceased, let the petitioner above



named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned A.S.J.-III, Sitamarhi in connection with Sitamarhi P.S. Case No. 349 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C.

(Satyavrat Verma, J)

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