

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38345 of 2021

Arising Out of PS. Case No.-385 Year-2019 Thana- SIWAN MUFFASIL District- Siwan

Shamshad Mian S/O Aziz Mian Resident of Village - Bindusar Hamid, P.S. -
Siwan Muffasil, District - Siwan.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh
For the Opposite Party/s : Mr.Bharat Bhushan

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 23-09-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in S.Tr.No. 52 of 2020, arising out of Siwan Muffasil P.S. Case No. 385 of 2019, registered for the offence under Section 302, 120B/34 of the Indian Penal Code.

As per the prosecution case, while the informant was cooking food at her house, this petitioner alongwith other FIR named accused and 5-6 unknown persons came there and took away her son to cremation ground (*Murdghatiya*). It is further alleged that after some time, the informant and her elder son went in search of the victim (son of informant) and saw that all the accused persons were assaulting son of the informant by means of *lathi*, *danda* and sword, as a result of which, the son of the informant died at the place of occurrence.



It is submitted on behalf of petitioner that though, the alleged occurrence took place on 13.10.2019, but the F.I.R. has been lodged after three days i.e. on 16.10.2019. It is further submitted that there is general and omnibus allegation of assault and no specific allegation has been alleged against this petitioner. In fact, the informant is not the eye-witness to the occurrence, since in her deposition, she has stated that when she reached at the place of occurrence, her son was lying dead. Similarly situated co-accused Arbind Kumar Mahto has been granted bail by a coordinate Bench of this Court, vide order dated 10.03.2021 passed in Cr.Misc. No. 34891 of 2020 (Annexure – 3). Petitioner is in custody since 20.01.2021. Investigation is complete.

Learned A.P.P. for the State has opposed the bail petition.

Considering the aforesaid facts and circumstances, the bail petition of petitioner is allowed. Let the above named petitioner be released on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 3rd Additional Sessions Judge, Siwan in connection with S.Tr.No. 52 of 2020, arising out of Siwan Muffasil P.S. Case No. 385 of 2019, on the following



conditions:

“(1) Petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court below and shall remain physically present, as directed by the court below, and on his absence on two consecutive dates without sufficient reason, his bail-bond shall be cancelled by the court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.”

(Prabhat Kumar Singh, J.)

anay

U		T	
---	--	---	--

