

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31858 of 2020

Arising Out of PS Case No.-255 Year-2019 Thana- GURUA District- Gaya

Sohan Paswan (M) aged about 35 years, Son of Late Dev Raj Paswan
Resident of Village - Usewa, P.S. - Gurua, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Prithivi Raj Singh, Advocate
For the State	:	Mr. Kumar Virendra Narayan, APP
For the Informant	:	Mr. Vinod Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 22-01-2021

Heard Mr. Prithivi Raj Singh, learned counsel for the petitioner; Mr. Kumar Virendra Narayan, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Vinod Kumar, learned counsel for the informant.

2. The petitioner is in custody in connection with Gurua PS Case No.255 of 2019 dated 30.11.2019, instituted under Sections 302/34 of the Indian Penal Code.

3. The allegation against the petitioner and seven others is of assault on his father and killing him by pressing his neck.

4. Learned counsel for the petitioner submitted that the allegation is false as witnesses have stated that it was only the petitioner and his son who was present at the time of occurrence and with regard to other six accused, it is stated that they were not present, which indicates that the informant has not truthfully



narrated the incident. Learned counsel submitted that even if it is believed that the petitioner and others have assaulted the deceased, the informant who was present in the house along with her daughter would have tried to save the deceased but they did not do so as there is no injury or even allegation that any injury was suffered by them, which also shows that they did not see who had committed the crime and only to falsely implicate the petitioner, with whom they have a grudge, his name has been taken. Learned counsel submitted that the petitioner having no criminal antecedent is in custody since 15.02.2020.

5. Learned APP, from the case diary, submitted that the post mortem report discloses 10 ante mortem injuries on the face, chest and shoulder and the doctors have opined that death was due to asphyxia caused either by pressuring on the mouth or neck or chest, which fully corroborates the allegations levelled against the petitioner.

6. Learned counsel for the informant submitted that the mother has filed the case against the petitioner, who is her son, with regard to killing of his father and it cannot be believed that a mother would falsely implicate her only son. It was further submitted that witnesses are consistent that the petitioner and his son were wanting the deceased to give them money he had



received from the sale of some land due to which a dispute arose and the deceased was badly assaulted. Learned counsel submitted that the sister of the petitioner i.e., daughter of the deceased has also deposed about the petitioner and his son being the assailants and there is sufficient cause for the petitioner to have committed the crime.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

8. Accordingly, the application stands dismissed.

9. At this stage, learned counsel for the petitioner submitted that out of six prosecution witnesses two have been examined.

10. In view thereof, let the Court below expedite the trial.

11. Let the main application supported by affidavit be e filed by learned counsel for the petitioner latest by day after tomorrow, if already not done.

(Ahsanuddin Amanullah, J.)

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