

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 32986 of 2020

Arising Out of PS Case No.-01 Year-2020 Thana- BHAGWANPUR District- Kaimur
(Bhabua)

Gulzar Alam, Male, aged about 31 years, Son of Late Lallan Mian, Resident of Village- Ramgarh, PO- Umapur, Police Station- Bhagwanpur, District- Kaimur (Bhabua).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Pathak, Advocate
For the State	:	Mr. Md. Fahimuddin, APP
For the Informant	:	Mr. Vijay Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 27-01-2021

Heard Mr. Rajesh Kumar Pathak, learned counsel for the petitioner; Mr. Md. Fahimuddin, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Vijay Kumar Mishra, learned counsel for the informant.

2. The petitioner is in custody in connection with Bhagwanpur PS Case No. 01 of 2020 dated 01.01.2020, instituted under Sections 302/34 of the Indian Penal Code; Section 3(2)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Act') and Section 37(i)(ii) of the Bihar Prohibition and Excise Act, 2016.

3. The allegation against the petitioner and another is of assault on the father of the informant and specifically against the



petitioner that he gave a blow on the scrotum leading to his instant death.

4. Learned counsel for the petitioner submitted that from the plain reading of the FIR itself it is clear that no offence is made out under the Act as it has been alleged that the abuse to the informant or his father was in front of their house and not in public place or before any other person. It was further submitted that the deceased was old, aged about 70 years, and had died due to acute heart attack and the petitioner has been falsely implicated due to village and local politics. It was submitted that in the postmortem also, the doctor has opined that death was due to severe heart attack and further no external or internal injury was found, which clearly shows that the allegation of having assaulted by foot on the scrotum is false. Learned counsel submitted that the petitioner has one other case against him in which he is on bail and in the present case he is in custody since 02.01.2020. It was submitted that co-accused Naushad Alam, who was in custody since 02.01.2020, has been granted bail by a co-ordinate Bench on 21.05.2020 in Cr. Misc. No. 16232 of 2020.

5. Learned APP submitted that the allegation against the petitioner is of giving blow on the scrotum of the deceased. However, it was not controverted that the postmortem report



indicates that no external or internal injury was found and the doctor has opined that death took place due to acute heart attack.

6. Learned counsel for the informant submitted that the death was due to the assault by the petitioner which caused internal reaction and the petitioner is the culprit due to whom the father of the informant died. However, he also could not controvert the postmortem report in which no external or internal injury has been found on the body and further that the opinion of the three doctors is unanimous that death was due to acute heart attack.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1st -cum-Special Judge (SC/ST Act), Kaimur at Bhabua in Bhagwanpur PS Case No. 01 of 2020, subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses.



Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

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