

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 33016 of 2020

Arising Out of PS Case No.-7 Year-2020 Thana- DARIYAPUR District- Saran

Banaras Rai (M), aged about 56 years, Son of Late Ramjivan Rai, Resident of Village-Rampur Jaiti, PS and PO-Dariyapur, District-Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Chhaya Kirti, Advocate
For the State	:	Mr. Anant Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 17-02-2021

The matter has been heard *via* video conferencing.

2. Heard Ms. Chhaya Kirti, learned counsel for the petitioner and Mr. Anant Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with Dariyapur PS Case No. 07 of 2020 dated 07.01.2020, instituted under Sections 302/34 of the Indian Penal Code.

4. The allegation against the petitioner is that he, along with other accused, was at his house and when the informant and his two brothers were passing by their house, the accused came running out and caught hold of the brother of the informant and other co-accused caught hold of various parts of his body and



further that co-accused Daroga Rai ordered the petitioner and co-accused Nanu Rai to kill the said brother of the informant on which the petitioner and Nanu Rai has taken out knife and attacked on the neck of the brother of the informant. It is further alleged that when the informant and his another brother rushed to rescue the victim, the accused caught hold of them and started assaulting and also threatened them.

5. Learned counsel for the petitioner submitted that all the family members have been made accused due to *mala fide* motive. It was submitted that the postmortem report does disclose injury on the neck but it did not damage any vital region which could have caused death and even the opinion is that the death was due to shock and haemorrhage which cannot be solely co-related to the injury alleged to have been inflicted by the petitioner. It was submitted that other co-accused have been granted bail and the petitioner has no criminal antecedent and is in custody since 27.01.2020.

6. Leaned APP, from the case diary, submitted that witnesses have consistently supported the FIR version and further that the inquest and postmortem reports corroborate the allegation. It was submitted that there was two inch deep injury on the neck and the fact that attack is by knife on the neck clearly indicates



that the intention was to kill. It was further submitted that co-accused Nunu Rai, who is said to have, together with the petitioner, inflicted blow on the neck, has not been granted bail and only other co-accused against whom there was no direct allegation of inflicting any life threatening injury on the deceased, have been granted bail.

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

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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