

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34905 of 2020

Arising Out of PS. Case No.-282 Year-2020 Thana- MAHUA District- Vaishali

VINDESHWAR RAI S/o Late Mishri Lal Rai R/o village- Mansurpur Milki,
P.S.- Mahua, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.

Mr. Udbhav, Adv.

For the Opposite Party/s : Mr. Ashok Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 10-03-2021 The present case was heard at length on
08.03.2021 and the same has been listed today for
orders.

The petitioner seeks regular bail in connection with Mahua P.S. Case No. 282 of 2020, registered for the offence punishable under Sections 147, 148, 149, 341, 323, 307 and 302 of the Indian Penal Code.

The case of the prosecution in brief, as per the fardbeyan of the informant dated 19.05.2020, leading to registration of first information report dated 27.05.2020, lodged by the informant, namely, Jugeshwar Ray, is that on 16.05.2020 at about 3:30 hours, while he along with his wife was



going from his house to his old house and had reached near the house of one Vinod Rai, the accused persons including the petitioner herein numbering about 14 known and 4-5 unknown persons came there and surrounded the informant and his wife, whereafter they had engaged in assaulting them with sticks resulting in the wife of the informant sustaining injuries, which resulted in her subsequent death. It is submitted that though the incident had taken place on 16.05.2020, but on account of being engaged in the treatment of his wife, the informant could give his fardbeyan before the S.I., S.K.Puri Police Station, Patna, only on 19.05.2020 at 3:30 hours in the hospital where his wife had succumbed to her injuries.

The learned counsel for the petitioner, Sri Ajay Kumar Thakur, has submitted that the petitioner is innocent, he has been falsely implicated in the present case, he is having a clean antecedent and he is languishing in custody since 13.07.2020. The learned counsel for the petitioner has further submitted that in



paragraph no. 22 of the case diary, there is mention about recording of the fardbeyan of the informant by the S.I., PMCH Patna Camp Emergency Ward, PMCH Patna, on 17.05.2020 at 12:10 hours wherein the informant has stated that the co-accused person, namely, Vinod Rai, had assaulted his wife by iron-rod resulting in her sustaining grievous injuries. It is thus submitted that both the fardbeyans dated 17.05.2020 as also the one annexed to the FIR in question dated 19.05.2020 would show that the informant has not alleged that the petitioner had engaged in any sort of overt act vis-a-vis the wife of the informant.

Per contra, the learned APP for the State, Sri Ashok Kumar, has vehemently opposed the prayer for bail.

As far as the learned counsel for the informant is concerned, he has stated by referring to paragraph no. 34 of the case diary, which is the restatement of the informant, that in his restatement, the informant has also alleged that



the petitioner had assaulted his wife with iron-rod on her face resulting in her sustaining grievous injury. It is also submitted that a witness, namely, Vikash Kumar, has stated, in his statement made before the police, as recorded in paragraph no. 35 of the case diary, that the petitioner had also assaulted the wife of the informant by iron-rod. Thus, it is submitted that the complicity of the petitioner is writ large from the records.

At this juncture, the learned counsel for the petitioner has submitted that the earliest version of the informant is the one recorded in paragraph no. 22 of the case dairy stated to have been recorded by the Sub-Inspector, Amit Kumar, on 17.05.2020 wherein no allegation has been levelled against the petitioner of having assaulted the wife of the informant and instead, the co-accused person, namely, Binod Rai, has been alleged to have assaulted the wife of the informant. It is also submitted that even if the FIR in question is taken into account, the fardbeyan of the informant is stated to have been recorded



on 19.05.2020, however, in the said statement also, there is no allegation of any sort of specific overt act as far as the petitioner is concerned. Lastly, it is submitted that the restatement of the informant has been recorded belatedly only on 14.07.2020 i.e. almost after about two months of the alleged occurrence and the statement of the witness, Vikash Kumar, has also been recorded on 14.07.2020 i.e. after about two months of the alleged occurrence and it is apparent that the informant has tried to modify his stand and make an improvement in his version, as disclosed in his fardbeyan, with a view to falsely implicate the petitioner herein, hence, it is submitted that benefit of doubt should be extended to the petitioner for the purposes of grant of bail to him and moreover, the petitioner undertakes to abide by such conditions as may be deemed fit and proper to be imposed by this Court.

Having heard the learned counsel for the parties and having gone through the materials available on record as also those available in the



case diary, this Court finds that according to the earliest version of the informant as also according to the fardbeyan of the informant i.e. the ones dated 17.05.2020 and 19.05.2020, no allegation has been levelled against the petitioner of having assaulted the wife of the informant and moreover, the petitioner is having a clean antecedent and he is languishing in custody since 13.07.2020, hence, I deem it fit and proper to admit the petitioner to the privilege of bail, however, subject to certain conditions.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Mahua P.S. Case No. 282 of 2020.

It is further directed that the petitioner would mark his attendance before the Officer-in-Charge of the concerned police station on each Monday of



the week at 10:30 am. and in the event of two consecutive defaults, the present privilege of regular bail, being granted to the petitioner herein, shall stand cancelled automatically.

(Mohit Kumar Shah, J)

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