

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37167 of 2020**

Arising Out of PS Case No.-349 Year-2020 Thana- SITAMARHI District- Sitamarhi

Md. Ibrahim @ Ibrahim @ Ibrahim Rain, Male, aged about 70 years, Son of Late Idris Rain @ Dukha, Resident of Village- Mehsual, East, Ward No. 6, PS- Sitamarhi, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P K Shahi, Senior Advocate with Mr. Pushpendra Kumar Singh, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Shankar Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 08-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. P K Shahi, learned senior counsel along with Mr. Pushpendra Kumar Singh, learned counsel for the petitioner; Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Shankar Kumar, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with Sitamarhi PS Case No. 349 of 2020 dated 10.07.2020, instituted under Sections 341, 323, 324, 307, 504 and 302/34 of the Indian Penal Code.

4. The allegation against the petitioner is that he had ordered the accused to kill, upon which, co-accused Md. Naushad



had assaulted the informant on the head by *farsa* and co-accused Md. Saddam assaulted by *bhala* and Md. Naushad had also assaulted Md. Chand by iron rod on the head and other accused had also assaulted other relatives of the informant, and to which Md. Chand died.

5. Learned counsel for the petitioner submitted that though there the only allegation against the petitioner is that he had ordered to kill the informant, but no overt act has been attributed to him, as the same is against co-accused Md. Naushad, Md. Saddam, Md. Shahnawaz, Md. Jahangir, Md. Jassem and Md. Mustafa. It was submitted that the petitioner is an old man aged about 70 years and has no criminal antecedent. He submitted that co-accused, Md. Jassem and Md. Mustafa have been granted anticipatory bail earlier today Cr. Misc. No. 2091 of 2021.

6. Learned APP submitted that the petitioner was the person who had instigated the other accused, who had assaulted the victims and one person had died due to that assault and, thus, he is equally responsible.

7. Learned counsel for the informant submitted that there was common intention of all and even if the petitioner is not alleged to have specifically assaulted the deceased but he had common intention and in pursuance of that intention, death had



occurred. It was submitted that two other accused have been granted regular bail by the Court and in the trial of the said two arrested persons, who have now been enlarged on bail, has begun after framing of charge.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, 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 Chief Judicial Magistrate, Sitamarhi in Sitamarhi PS Case No. 349 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner, and (iii) that the petitioner shall cooperate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to



the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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