

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1813 of 2021

Arising Out of PS. Case No.-435 Year-2020 Thana- SAHEBGANJ District- Muzaffarpur

NISHANT KUMAR SON OF JITENDRA KUMAR RESIDENT OF
VILLAGE-DAHA CHHAPRA (DHANAIYA), P.S.-SAHEBGANJ,
DISTRICT-MUZAFFARPUR.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saket Gupta

For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 04-03-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is in custody since 18.08.2020 in connection with Sahebganj P.S. Case No. 435/2020 registered for the offences punishable under Sections 147/148/149/341/342/302 of the Indian Penal Code.

As per the prosecution case, on 14.08.2020 at about 04:00 P.M., while the husband of the informant was returning from Deoria Bazar and reached near Dhanaiya Chowk, all the 11 FIR named accused persons and some other unknown persons armed with rod, *lathi*, *danda* and other deadly weapons attacked her husband. It is further alleged that, on receiving information, she along with other villagers reached the place of occurrence and saw that all accused persons are assaulting her



husband with rod, *lathi* and *danda* and while her husband was taken for treatment, he died on the way to hospital.

It is submitted on behalf of the petitioner that from the FIR itself, it is apparent that the informant is the eye-witness of the occurrence, but she has not named this petitioner in the FIR. However, during the course of investigation, in her re-statement, she has named this petitioner. It is further submitted on behalf of the petitioner that the informant later on filed a protest petition in the Court of learned Chief Judicial Magistrate, Muzaffarpur wherein also she has not named this petitioner. It is next submitted that general and omnibus allegation has been levelled against this petitioner and the petitioner is a student having no criminal antecedent. Chargesheet has already been submitted in this case. Petitioner is in custody since 18.08.2020.

However, learned A.P.P. appearing on behalf of the State vehemently opposed the bail application and submitted that the petitioner is one of the assailants of the deceased.

Considering the aforesaid facts and circumstances and taking into consideration that the informant claims to be the eye-witness of the occurrence, but has not named this petitioner and there is general and omnibus allegation against this petitioner coupled with the fact that petitioner bears a clean antecedent,



the bail petition of the petitioner is allowed. Let the petitioner above named be released on bail, on furnishing bail bonds of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount to the satisfaction of learned ACJM, 1st, Muzaffarpur, in connection with Sahebganj P.S. Case No. 435/2020, subject to following conditions:-

- (1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present, as directed by the Court on his absence on two consecutive dates without sufficient reason, his bail-bonds shall be cancelled by the Court below.
- (2) If the petitioner tempers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Prabhat Kumar Singh, J)

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