

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6340 of 2021**

Arising Out of PS. Case No.-367 Year-2019 Thana- KALYANPUR District- Samastipur

Devender Das S/O Late Laxman Das Resident Of Village-Vashudevpur, P.S.-
KALYANPUR, District-Samastipur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Jitendra Narayan Singh, Advocate Ms.Kumari Vandana, Advocate
For the State	:	Dr. Indihar Kumari, APP
For the Informant	:	Mr. Vinay Kumar Mishra, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 12-08-2021 Heard learned counsel for the petitioner, learned counsel
for the informant and learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Kalyanpur P.S. Case No. 367 of 2019 registered for the offence under Section 302/34 of the Indian Penal Code. He is in custody since 08.07.2020.

As per allegations in the First Information Report, this petitioner along with three other co-accused had indulged in assaulting the brother of the informant who later on succumbed to his injury and died.

Learned counsel for the petitioner submits that altogether eight persons are named in the First Information Report. Initially four persons are named as those who had come on the door of the informant and surrounded the brother of the informant.

This petitioner is not named therein among the four persons. It is alleged that all the four started assaulting him whereafter three other co-accused also came there and they got indulged in the alleged occurrence. At this stage it is alleged that this petitioner was one among the three persons who came later on. The co-accused Sunil Das had allegedly given a Farsa blow on the head of the brother of the informant causing a cut injury on his head. It is alleged further that co-accused Ganeshi Das, Nitish Kumar and this petitioner had assaulted the brother of the informed by rod.

Learned counsel for the petitioner submits that it is a case of over implication of the accused which would be apparent from the First Information Report itself in which firstly it is alleged that the four accused who had surrounded the brother of the informant started assaulting him. In the second part of the F.I.R. it is alleged that this petitioner along with Ganeshi Das and Nitish Kumar reached there. Learned counsel submits that the post-mortem report does not suggest multiple injuries on the body of the deceased and the learned Sessions Judge has noted in the impugned order that the cause of death is due to the head injury caused by hard and blunt object and it's post impact. In the post-mortem report the doctor has noticed one stitched wound on the right forehead.

Learned counsel for the informant as well as learned

A.P.P. for the State have opposed the prayer for regular bail of the petitioner. Learned A.P.P. has read out some of the statements of the witnesses who are family members of the deceased and from the post-mortem report it is stated that one stitched wound on right forehead has been found which was further dissected and then post-mortem report deals with the same. There is no multiple injury on the body.

Having regard to the facts and circumstances of the case, the allegation against this petitioner being general and omnibus of causing assault by rod along with co-accused but the post-mortem report not suggesting multiple injuries on the body and the specific allegation of causing assault on the head is against co-accused Sunil Das, the petitioner has remained in jail in connection with this case for over one year and has got no criminal antecedent, in the circumstances this court directs release of the petitioner above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Samastipur in connection with Kalyanpur P.S. Case No. 367 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.