

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5229 of 2021

Arising Out of PS. Case No.-277 Year-2019 Thana- MAIRWAN District- Siwan

SHIVJI SINGH SON OF VISHWANATH SINGH R/O VILLAGE-
MAIDANIA, P.S.-MAIRWA, DISTRICT- SIWAN, BIHAR.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nihar Nandan Ambasta, Advocate

For the Opposite Party/s : Mr. Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 21-06-2021 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing.

The petitioner has filed the instant application for grant of regular bail in connection with Mairwa P.S. Case no. 277 of 2019 registered under sections 302, 307, 341, 323, 324 and 34 of the Indian Penal Code.

As per allegation in the FIR, it is stated by the informant that while his mother was returning from the agricultural field, the seven named accused persons including the petitioner herein surrounded her. Subhash Chandra Singh with a *Kudal* and the petitioner herein with a hammer assaulted her on her head. On the informant's brother coming to her rescue, the other accused persons assaulted him. On being taken to the hospital, the doctor declared her to have died.



It is submitted by learned counsel for the petitioner that the allegations as leveled in the FIR are false and concocted. The petitioner has been falsely implicated in the case. The allegations of assault on the mother of the informant is not on the petitioner alone. So far as the findings in the postmortem report are concerned, the same do not support the allegations against the petitioner but point more towards the alleged assault by Subhash Chandra Singh. It is further submitted that there is case and counter case between the parties, the correct version having been narrated in the counter case wherein the petitioner is the informant. The petitioner as also the members of his family sustained grievous injuries and in course of treatment were arrested in this case from the hospital itself. Further while the cause of the occurrence has been mentioned in the counter case lodged by the petitioner, no reason has been assigned in the present FIR. Learned counsel for the petitioner further refers to his residing abroad, the place of occurrence described in the case diary and the provisions with respect to right of private defence. The petitioner is in custody since 21.10.2019.

The application for bail is opposed by learned APP for the State.



Having heard learned counsel for the parties and taking into consideration the allegations in the FIR wherein there is direct allegation against the petitioner of having assaulted with hammer on the head of the mother of the informant which is supported from the postmortem report, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

In view of the petitioner having been in custody since 21.10.2019, the learned trial court is directed to expedite the trial.

(Partha Sarthy, J)

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