

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6353 of 2021

Arising Out of PS. Case No.-261 Year-2018 Thana- BANIAPUR District- Saran

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Tarkeshwar Bhagat, Male, aged about 47 years, Son of Doodhnath Bhagat
Resident of Village - Jahagirpur, P.S.- Baniyapur, Distt.- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Brajesh Kumar Singh

For the Opposite Party/s : Smt.Indu Kumari Srivastava

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3. 22-06-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in Baniyapur P.S. Case No. 261 of 2018, corresponding to Sessions Trial No. 131 of 2019, registered for the offence under Section 302/34 of the Indian Penal Code.

As per the prosecution case, on 13.08.2018 at about 7:30 PM, this petitioner alongwith co-accused Munna Bhagat came to the house of informant and started quarreling with informant's husband and on protest, both accused persons started assaulting informant's husband with shovel, as a result of which, he died on the spot itself.

It is submitted on behalf of petitioner that no such occurrence has taken place and there is no specific allegation



against the petitioner that he has given the fatal blow on the face of the deceased and as per *post-mortem* report, the deceased died due to injury caused on the face of the deceased. It is further submitted that trial has already commenced and during trial, five witnesses, including informant (P.W.1), have already been examined, who have not supported the prosecution case. In fact, the informant (P.W.1) has already been declared hostile. Petitioner is in custody since 22.11.2018.

Learned A.P.P. for the State has opposed the bail petition.

However, considering the aforesaid facts & circumstances as well as period of custody and the depositions of the P.W.1 to P.W.5, who have not supported the prosecution case, the bail petition of petitioner is allowed.

Let the above named petitioner be released on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-XI, Saran at Chapra in connection with Baniyapur P.S. Case No. 261 of 2018, corresponding to Sessions Trial No. 131 of 2019, on the following conditions:

“(1) Petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court below and shall remain physically present, as directed by the



court below, and on his absence on two consecutive dates without sufficient reason, his bail-bond shall be cancelled by the court below.

(2) If the petitioner tampers 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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