

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7695 of 2021

Arising Out of PS. Case No.-257 Year-2020 Thana- KUDHNI District- Muzaffarpur

Ganour Rai Son Of Rajendra Rai Resident Of Village - Dhodhi Ratan, P.S.-
Kudhni (Fakuli O.P.), Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nachiketa Jha
For the Opposite Party/s	:	Mr. Sanjay Kumar @ S.K.
	:	Mr. Sanjay Kumar Tiwari, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 13-09-2021 Heard learned counsel for the petitioner and learned A.P.P.
for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

The petitioner seeks bail in connection with Kurhni (Kudhani, Kudni) (Fakuli O.P.) P.S. Case No. 257 of 2020 registered for the offence punishable under Section 302/34 of the Indian Penal Code.

As per the prosecution case, informant *Ganesh Rai* has alleged in his written statement that his father *Harendra Rai* and cousin *Prem Rai* was going to his newly constructed house and in



the meantime petitioner along with other co-accused persons having armed with sharp edged sword attacked and petitioner caused injury on the back side of head of informant's father by sword. Other accused persons also assaulted father of the informant by different hard and blunt substance. The father of the informant was admitted to the hospital where doctor declared him dead.

Learned counsel for the petitioner submits that petitioner has falsely been implicated in this case and has not committed any offence as alleged in the FIR. No such occurrence as alleged ever took place. He submits that after perusal of the F.I.R. it would appear that informant is not any eye witness of the said occurrence. He submits that the alleged date of occurrence is 07.05.2020, but the same is produced before the Learned Magistrate on 09.05.2020. He further submits that there is false allegation of assault against all the accused persons, specific allegation of assault with sword on the back side of head of the deceased, but after perusal of the *post mortem* report the cause of death is with hard and blunt object which is not attributed to the petitioner. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. The petitioner has no criminal antecedent as has been mentioned in para 3 of this bail application and he is languishing in custody since 03.06.2020.



Learned APP for the State opposing the bail petition submits that there is specific allegation against the petitioner of assaulting father of the informant which is supported by the *post mortem* report.

Considering the facts aforesaid, the above named petitioner is directed to be enlarged on bail, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor Court in connection with Kudhani (Kurhni, Kudni) (Fakuli O.P.) P.S. Case No. 257 of 2020 subject to the following conditions:

(1) One of the bailors will be own close relative of the petitioner who will give on affidavit genealogy as to how he is relative to petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds



shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in the case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

GAURAV S./-

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