

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15767 of 2022

Arising Out of PS. Case No.-161 Year-2017 Thana- GOPALPUR District- Patna

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Munchun Paswan @ Munchun Kumar (Male), aged about- 27 years, Son of Chotu Paswan, Resident of Village - Ramji Chowk Digha, P.S. - Digha, District - Patna, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Abhay Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 05-09-2022 Heard Mr. Nihar Nandan Ambasta, learned counsel appearing on behalf of the petitioner and Mr. Abhay Kumar, learned A.P.P. for the State.

Petitioner, who is in custody since 15.12.2021, seeks regular bail in connection with Gopalpur P.S. Case No. 161 of 2017 dated 03.09.2017 registered for offences punishable under Sections 341, 323, 307, 504 and 302/34 of the Indian Penal Code.

As per the allegation made in the F.I.R., both petitioner and the informant were engaged in a quarrel with each other which was intervened by the father of the informant in which he had sustained fist blow injury inflicted by the petitioner on the chest and he had succumbed to injury while he



was taken to the hospital.

Learned counsel appearing on behalf of the petitioner submitted that the incidence took place on 25.08.2017 and the F.I.R. was lodged after eight days though the police station was just five kilometers away from the place of occurrence and death had also taken place on same day i.e. on 25.08.2017. The delay in lodging of the F.I.R. shows that in a planned manner, the petitioner has been implicated in a false case for grabbing landed property of the mother of the petitioner, who is cousin sister of the informant. The informant is cousin maternal uncle of the petitioner. No such incidence had taken place. Petitioner has clean antecedent and he is in custody since 15.12.2021.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. He has submitted that in paragraph nos. 6, 7 and 8, independent witnesses, who have claimed themselves to be the eye-witness of the alleged incidence have supported the allegation made against the petitioner that the petitioner had assaulted the father of the informant with fist to which the father of the informant had succumbed.

Taking into consideration the very fact that allegedly the incident had taken place on 25.08.2017 and F.I.R. was



lodged after delay of nearly eight days though the police station was just five kilometers away from the place of occurrence, no explanation has been given by the informant for delay. The allegation against the petitioner is that he had inflicted fist blow on the chest of the father of the informant to which he had succumbed. Postmortem report does not show any fracture of rib. Cause of death is reserved. Other co-accused persons named in the F.I.R. have already been released on bail. The very delay in lodging of the F.I.R. creates doubt on the version of the prosecution. There is dispute relating to the share of the petitioner which allegedly according to the petitioner, the informant is trying to grab. Charge-sheet has already been submitted. Prima facie petitioner has made out a case to be released on bail.

The Court below is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J. - XXIII, Patna in connection with Gopalpur P.S. Case No. 161 of 2017 dated 03.09.2017 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court



concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(Purnendu Singh, J)

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