

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40385 of 2021

Arising Out of PS. Case No.-453 Year-2020 Thana- KHAIRA District- Jamui

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DULAR YADAV, Aged about 62 years, S/O LATE YUGAL YADAV R/o
village- Manpur, P.S.- Khaira, District- Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arjun Pd. Keshri, Advocate.

For the Opposite Party/s : Mr.Ajit Kumar.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 22-02-2022 Heard learned counsel appearing on behalf of the

petitioner, learned counsel for the informant and learned A.P.P.

for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioner, who is in custody since 23.11.2020,
seeks regular bail in connection with Khaira P.S. Case No. 453
of 2020 for the offence punishable under Sections 147, 148,
149, 323, 307, 302, 504 and 506 of the Indian Penal Code.

The prosecution case, in brief, is that the informant
who is the grand-daughter of the deceased Niru Yadav has
lodged the present F.I.R. that the petitioner who is the father of
co-accused Pintu Yadav and Bipin Yadav caused serious assault
by sword on the person of Niru Yadav. The victim died on the



spot. Anti mortem report was prepared at the place of occurrence. The specific statement made by the informant in the F.I.R. against the petitioner is that she along with her cousin brother Saurav Kumar had seen the alleged incidence and the informant was also present at the place of occurrence.

Learned counsel appearing on the behalf of the petitioner submits that there is general and omnibus allegation of assault made by sword on the body of the deceased and the same is confirmed because only two injuries have been found on the body of the deceased Niru Yadav and as such it is not specific whether the death was caused by the blow of sword on the body of the deceased by the petitioner. He has made a specific submission that the petitioner is 62 years old and at best only allegation which could be made against the petitioner is that he was present at the time of alleged assault having been committed by the two co-accused who are sons of the petitioner while the deceased was passing through his house and they had surrounded the deceased.

Learned counsel appearing on behalf of the informant submits that motive is also clear to commit murder of the deceased. There is land dispute between the parties. The deceased and the petitioner are own brother and to grab the land of the deceased, they have committed murder of Niru Yadav.



Post mortem also confirms the alleged caused of death having been committed by using a sharp cutting weapon. Admittedly in the F.I.R. specific allegation against all the three accused persons named who are alleged to have committed murder of the deceased were seen possessed with sword in their hand.

Learned APP for the State supports the submission of the learned counsel for the informant. However, he further submits that from the perusal of the inquest report also, the body was found on the place of occurrence and as per post mortem report, two sharp cut injuries were found on the body of the deceased, which is evident from Paragraph No.99 of the case diary also corroborates the alleged murder.

From the aforesaid submissions made by the parties as well as materials available on record, it appears that the cause of death is due to sharp cutting weapon and admittedly in the present case the informant along with her cousin brother Saurav Kumar, while they were going to some other place, Saurav is the eye witness of the alleged incidence. In course of investigation, statement of said Saurav has not been recorded. In the present case he and the informant are the eye witness of the occurrence.

Considering the fact that Saurav Kumar is the main witness who had seen the alleged occurrence has not been examined in the present case, the benefit of doubt goes in favour



of the petitioner in view of the fact that there are only two sharp cut injuries on the body of the deceased as per the post mortem report.

This Court has also taken into consideration the age of the petitioner who as per the cause title of the bail petition is 62 years old senior citizen and it also appears that trial is not going to be concluded soon due to COVID-19.

Prima facie the petitioner has made out a case to be released on bail. The court below is directed to enlarge the petitioner 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 Chief Judicial Magistrate, Jamui in connection with Khaira P.S. Case No. 453 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

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

(3) 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.

(4) 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 bonds.

(5) The petitioner shall cooperate with the trial and will make his attendance before the concerned police station under which his house is located every week on Saturday at 9 AM till conclusion of the trial and on any single default without any valid reasons on the part of the petitioner, his bail bonds shall be cancelled and the concerned SHO of the police station shall submit his monthly attendance report to the Superintendent of Police having jurisdiction.

Considering the serious nature of allegation, the trial court is directed to conclude the trial expeditiously within twelve months.

The court below shall not be prejudiced by any of the observations made by this Court in conduct of the trial and it will have no bearing on any of the co-accused.

(Purnendu Singh, J)

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