

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34758 of 2022

Arising Out of PS. Case No.-78 Year-2021 Thana- NAGARNAUSA District- Nalanda

Rajesh Chaudhary @ Muneshwar Chaudhary, Son of Bhonu Chaudhary @
Laxmi Narayan Chaudhary, Resident of Ashrafpur, P.S.- Nagarnausa, District
- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Shama Sinha, Advocate

For the Opposite Party/s : Mr.Sanjay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 23-09-2022 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Nagarnausa P.S. Case No. 78 of 2021 registered for the alleged offences under Sections 147, 149, 323, 325, 452 and 302 of the Indian Penal Code.

As per prosecution case, the petitioner and other co-accused persons forcibly entered into the house of the informant and assaulted her husband with fists, slaps and legs and they took him outside the house. Husband of the informant fell down



after receiving injuries and later on he died. The informant was also assaulted by the petitioner and other co-accused.

The learned counsel for the petitioner submit that the petitioner is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. From the facts of the FIR, it is clear that no specific overt act has been attributed to the petitioner. The allegation of assault is against all six accused persons. No external injury was found on the body of the husband of the informant and post-mortem report shows only black mark was present on the umbilicus caused by hard heavy blunt substance. It is apparent from the FIR, there is no allegation that accused persons were assaulting the deceased with heavy hard blunt substance. So the allegation of assault to the deceased by the petitioner is not supported by the post-mortem report. In fact, the deceased had been killed by some unknown persons and the dead body was thrown in the field in front of the door of the informant and thereafter this false case has been lodged. The petitioner and other co-accused persons were implicated in this case due to previous enmity as detailed in paragraphs 6, 7 and 8 of the petition. The petitioner was found in his house when the police came to arrest him and this shows the innocence of the petitioner. Even if the facts are taken



to be true, only offence under Section 304 of IPC would be made out against the petitioner as there was no intention or knowledge attributed to the petitioner. The petitioner is in custody since 02.12.2021 and charge-sheet has been in this case.

Learned APP opposes the prayer for bail submitting that there is allegation against the petitioner and other co-accused persons that they forcibly entered into the house of the informant and assaulted her husband causing his death. The petitioner is having criminal antecedent and one case is pending against him.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the general and omnibus allegations against the petitioner without any specific overt act being attributed to him and further considering the lack of visible injuries on the persons of the husband of the informant as observed during post-mortem and also considering the earlier case of the petitioner's side, his period of custody along with submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court of Additional Chief Judicial Magistrate, Hilsa, in connection with Nagarnausa P.S. Case No. 78 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the



following conditions :

- (i) The bail bond of petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioner.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

balmukund/-

U		T	
---	--	---	--

