

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38528 of 2022

Arising Out of PS. Case No.-66 Year-2022 Thana- MURLIGANJ District- Madhepura

Md. Akhlakh, Son of Md. Kudus, Resident of Village- Lakshmipur Chandi
Asthan, P.S.- Kumarkhand, Distt.- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhay Shankar Jha, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-10-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Abhay Shankar Jha, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Murliganj P.S. Case No. 66 of 2022 registered for the offences punishable under Sections 341, 323, 324, 326, 307, 302/34 of the Indian Penal Code.

The prosecution case is based on a written report filed by the informant alleging therein that on 08.02.2022, at about 7.00 PM, the informant along with his brother Pawan Kumar Yadav and other persons had gone to see Sarswati Pooja. While they were returning to their home, altogether 6 named accused,



including the petitioner, and 3-4 unknown persons of village Chandi Ashtan came there on motorcycles and started assaulting the informant's brother and Nilesh Kumar Yadav by means of dagger. It is further alleged that both injured were taken to Murliganj Hospital where Pawan Kumar was declared dead and Nilesh Kumar Yadav was referred to Madhepura Hospital.

Learned counsel appearing on behalf of the petitioner submits that the informant, who claimed himself to be an eye witness, has not made any specific allegation of causing dagger blow against the petitioner, rather general and omnibus allegation has been levelled against six named accused persons, including the petitioner, and 3-4 unknown persons. He further submits that the deceased sustained 3-4 incised injuries over his body, but it is not stated as to how and who had assaulted the deceased and the injured. He next submits that admittedly the deceased and the injured were taken to Murliganj Hospital, where their treatment were made, but at no point of time any fardbeyan was recorded by the police, rather a written report has been filed on the next day i.e. on 09.02.22, at about 4.45 PM. He also submitted that the inquest report was also prepared by the police on 08.02.2022 itself, at about 23.15 PM, but none had disclosed as to how the deceased and injured sustained injury,



which also caused suspicion over the prosecution case. He next submits that the petitioner is a fruit vendor and on the next day of the occurrence, he was apprehended from his shop, which also shows his innocence that had he been indulged in such type of offence, he would have certainly fled away from his house or from the place of occurrence. He lastly submits that the petitioner, having fair antecedent, is in custody since 11.02.2022 and, moreover, after completion of the investigation, charge-sheet has been submitted.

On the other hand learned APP for the State vehemently opposes the bail application and submits that specific allegation has been levelled against all the accused persons, including the petitioner, that they gave dagger blow to the deceased and his friend, which resulted into death of one person.

Regard being had to the submissions made on behalf of the parties and considering the general and omnibus nature of allegation and the fact that the F.I.R. has been instituted much after preparation of the inquest report and the petitioner having fair antecedent, apart from his period of incarceration, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two



sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Madhepura in connection with Murliganj P.S. Case No. 66 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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