

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54478 of 2021

Arising Out of PS. Case No.-34 Year-2021 Thana- BARAULI District- Gopalganj

Nanhaki Mukhiya @ Ram Naresh Mukhiya @ Nanhak Mukhiya, S/o Late Chandrama Mukhiya R/o Village- Rupanchhap, P.S.- Barauli, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anant Kumar Bhaskar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 30-08-2022 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. Anant Kumar Bhaskar, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with S.T. No. 225 of 2021, arising out of Barauli P.S. Case No. 34 of 2021, registered for the offences punishable under Sections 324, 307/302 of the Indian Penal Code.

As per the prosecution case, it is alleged that the husband of the informant and the petitioner used to do fish trade together. On the alleged date, on account of some hot discussion with regard to fish trading, the petitioner brought his knife from



the room and started inflicting injury on her husband, due to which he sustained injury over his hand and when her brother-in-law Ajay Mukhia came to rescue him, the petitioner also inflicted indiscriminate knife blow, due to which he succumbed to injuries.

Learned counsel appearing on behalf of the petitioner submits that both the petitioner and the husband of the informant as well as the injured are full brothers and only on account of some hot discussion, this occurrence took place without any mens rea. It is next submitted that the petitioner has not used weapon causing lethal injury, as the deceased is non-else, but the full brother of the petitioner.

A Supplementary affidavit has also been filed bringing on record the depositions of three charge-sheet witnesses including the informant. It is next submitted that all the three charge-sheet witnesses have turned hostile and they have not supported the prosecution case. It is also submitted that the husband of the informant, who sustained injuries in the alleged occurrence, has neither been made charge-sheet witness nor his statement was recorded by the police under Section 161 of the Cr.P.C. It is lastly submits that the petitioner is in custody since 05.02.2021, having no criminal antecedent.



On the other hand, learned APP for the State vehemently opposes the bail application and submits that during the course of investigation, all the witnesses and the informant have supported the prosecution case and there is specific allegation that this petitioner had inflicted knife blow to his brothers, due to which one of his brother died.

Having regard to the submissions made on behalf of the parties and considering the deposition of the witnesses including the informant, who have turned hostile, apart from the custody of the petitioner and his fair antecedent, 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 Sessions Judge, Gopalganj in connection with Sessions Trial No. 225 of 2021, arising out of Barauli P.S. Case No. 34 of 2021, 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 physically 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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