

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56130 of 2021

Arising Out of PS. Case No.-96 Year-2021 Thana- KOPA District- Saran

ARIF ALI S/o Kalimullah Miyan R/o Mohalla- Kumna, Ward No. 5, P.S.-
Kopa, District- Saran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Basant Kumar Singh, Advocate
For the Opposite Party/s :	Mr. Syed Ehteshamuddin, APP
For the Informant/s :	Mr. Shashank Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 17-05-2022 Let the defects, if any, be removed within four weeks
from today.

Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered in connection
with Kopa P.S.Case No. 96 of 2021 for the offenses punishable
under Sections 147, 148, 149, 341, 323, 324, 307 and 302 of the
Indian Penal Code.

As per the prosecution case, it is alleged that on
25.05.2021, the informant along with his brother went to attend
the marriage of sister of Sadam Hussain and after taking meal,
he came back and slept. It is further alleged that at about 1.30
a.m his younger brother and three other persons brought his



injured younger brother, namely, Afroz Miyan and stated that all the FIR named accused persons have brutally assaulted the brother of the informant by means of knief, lathi and sharp object. It is also alleged that when some villagers came to rescue, the accused persons also assaulted them.

It is submitted by the learned counsel for the petitioner that from bare perusal of the F.I.R, it is evident that informant is not an eye witness to the alleged occurrence. It is further submitted that there is general and omnibus allegation against all the accused persons including the petitioner that they assaulted the deceased with knief, iron rod and sharp cutting weapon, however, in the post mortem report, only two penetrating injuries have been found. There is general and omnibus allegation against the petitioner. No specific allegation of assault has been attributed against the petitioner. It is next submitted that the petitioner has clean antecedent and is in custody since 27.05.2021. Though investigation has already completed and charge sheet has been submitted in the present case.

On the other hand, learned counsel for the informant opposed the bail application of the petitioner and submits that all the accused persons sharing with common intention



assaulted the deceased brutally, which ultimately resultant into his death and further the injured witness have also supported the prosecution case that all the FIR named accused persons including this petitioner assaulted the deceased with knife and sharp cutting weapon which has been corroborate by the post mortem report.

The counsel for the State also opposes the bail application and submits that this petitioner has actively participated in the present crime.

Having heard the rival contentions of the parties and taking into consideration the fact that, the informant is not an eye witness to the alleged occurrence and moreover, there is general and omnibus allegation, no specific allegation as to who assaulted the deceased with knife , iron rod and sharp cutting weapon as the post mortem report only suggest two penetrating injuries over the body of the deceased. Apart from the fact this petitioner having clean antecedent and is in custody since 27.05.2021, let the petitioner, above named, 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 Judicial Magistrate 1st class, Saran at Chapra in connection with Kopa P.S. Case No. 96 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 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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