

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58605 of 2021

Arising Out of PS. Case No.-431 Year-2020 Thana- SHERGHATI District- Gaya

SANTOSH CHAUDHARY Son of Mahendra Chaudhary Resident of Village
- Bela, P.S.- Sherghati, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Javed Jafar Khan

For the Opposite Party/s : Mr.Awadhesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 06-07-2022 Heard learned counsel for the petitioner and learned
APP for the State.

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 Sherghati P.S. Case No. 431 of 2020 registered for the alleged offences under Sections 302/34 of the Indian Penal Code.

Allegation against the petitioner is that he along with co-accused persons assaulted the brother of the informant by fist, slaps and legs causing his death.

The learned counsel for the petitioner submits that allegation against the petitioner is general, vague and omnibus.



The informant is not an eye witness. A minor scuffle took place between the petitioner and the deceased and the same was started by the deceased. Both of them hit each other by fist and slap and due to fall on the road, he succumbed to his injuries. So no offence of under section 302 of the Indian Penal Code is made out against this petitioner. This fact has been supported by the witness examined by the police and also supported by all the witnesses and by the post mortem report, wherein death is due to cranio cerebral injuries and the injuries are stated to be caused by hard and blunt forces.

Learned counsel further submits that co-accused persons have been granted bail by a Co-ordinate Bench vide order dated 27.09.2021 passed in Cr. Misc. No. 28889 of 2021. The petitioner is in custody since 31.08.2020.

Learned APP opposes the prayer for bail submitting that due to assaulted by the petitioner, the brother of the informant died.

Having regard to the nature of the injuries suffered by the deceased and cause of death as mentioned in the post-mortem report along with statement in case diary where it has been mentioned that the scuffle took place with exchange of fist and slap, no offence of under section 302 of the Indian Penal



Code appears to be made out against this petitioner and further considering the period of the custody, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Sherghati (Gaya) in connection with Sherghati P.S. Case No. 431 of 2020 , subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

Gautam/-

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

