

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59173 of 2021

Arising Out of PS. Case No.-145 Year-2020 Thana- SARSI District- Purnia

Punkesh Singh S/o Shankar Singh R/o village and P.S.- Sarsi, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agarawal, Sr. Advocate.
For the State	:	Mr. Jharkhandi Upadhyay, APP.
For the Informant	:	Mr. Sunil Kumar Pathak, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 18-05-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. N. K. Agrawal, learned Senior Counsel appearing on behalf of the petitioner, Mr. Sunil Kumar Pathak, learned counsel for the informant and learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Sarsi P. S. Case No. 145 of 2020 registered for the offences punishable under Sections 147, 148, 149, 323, 302 and 120 (B) and Section 27 of the Arms Act.

As per the prosecution case, it is alleged that on



07.11.2020, while the informant along with his elder brother, namely, Beni Singh was going towards the polling centre, Lacy Singh warned them since they were canvassing for *Laltern* symbol and also threatened to kill them. It is further alleged that at around 02:00 P.M., four to five armed criminals came on motorcycle and they indiscriminately started firing whereupon the other persons including this informant started fleeing away in order to save their lives. It is further alleged that while fleeing, Beni Singh fell down, thereafter, the accused persons assaulted him with *lathi* and *danda* and then fired upon him. The informant identified the criminals and took the name as Punkesh Singh, Shyamal Singh, Kangna Singh, Mithu Singh and Marconi Singh @ Fauji.

Learned counsel appearing on behalf of the petitioner submits that there is general and omnibus allegation against all the accused persons with an allegation that they assaulted the deceased with *lathi* and *danda* and thereafter, fired upon him. However, it is further submitted that the allegation and the manner of the assault as levelled in the F.I.R. does not corroborate with the injuries, particularly no injury has been found over the body of the deceased, which could have said to be caused by hard and blunt substance and moreover, there is no



allegation against this petitioner that he assaulted the deceased with sharp cutting weapon. It is next submitted that the petitioner being the supporter of the Lacy Singh, he was present in support of her and due to which his mobile locations have been shown at the P. O. It is also submitted that though the entire allegation revolved around the fact that the occurrence has taken place at the instigation of Lacy Singh but during the course of investigation nothing has come against co-accused Lacy Singh and the investigation is still going on till date. So far as this petitioner is concerned, against him the charge-sheet has already been submitted on 04.02.2021 and he is in custody since 12.11.2020. It is further submitted that from perusal of the F.I.R., it is evident that the accused persons after committing the said occurrence left their motorcycles and fled away. The petitioner is not the owner of the said vehicles.

On the other hand, learned counsel appearing on behalf of the informant opposes the bail application and submits that there is specific allegation against this petitioner, who brutally assaulted the deceased and thereafter shot him dead. Further, during the course of investigation in paragraph nos. 06, 07, 08, 09 and 23 all the witnesses have supported the prosecution case and categorically took the name of this



petitioner as one of the accused, who participated in the said occurrence and even from the electronic surveillance of the mobile location, it appears that the petitioner was present near the place of concurrence. It is also submitted that the petitioner is carrying criminal antecedent having found involved in three other cases.

Learned APP for the State also opposes the bail application and submits that though there is general and omnibus allegation against the petitioner but during the course of investigation his involvement has not been denied, all the witnesses have supported the prosecution case that he has actively participated in the occurrence causing the death of Beni Singh.

Having considered the submissions made on behalf of the parties and taking into account the fact that there is no specific allegation against any of accused persons and so far as the allegation and the manner of assault as levelled in the F.I.R., are concerned that does not corroborate with the injuries found in post mortem report which suggests that the deceased has received seven injuries caused by sharp cutting weapon. So far as the mobile location of the petitioner is concerned, it is submitted by the learned counsel for the petitioner that there



was an assembly election going on in which the petitioner being the supporter of Lacy Singh had come to support her and as such his tower location shown to be at the place of occurrence; apart from the fact that the entire occurrence, which is said to have taken place at the instigation of Lacy Singh, the investigation against her is still pending. Further this petitioner is in custody since 12.11.2020 and there is no allegation of tampering of the evidence and intimidation of the witnesses in as much as the investigation has already been completed and the charge-sheet has been submitted and moreover, mere antecedent of a person cannot be a sole ground to refuse the prayer for bail, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge IV, Purnea in connection with Sarsi P. S. Case No. 145 of 2020, subject to the condition that one of the bailors will be the close relative 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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