

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59420 of 2021

Arising Out of PS. Case No.-116 Year-2019 Thana- GORAUL District- Vaishali

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MD. KAMRUDDIN @ NIRALE Son of Md. Hasnain Resident of Village-
Hasanpur Gangati, P.S.- Goraul (Katahara O.P.), District- Vaishali (Bihar)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Naresh Sharma, Advocate.

For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 27-09-2022 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. Ram Naresh Sharma, learned counsel for
the petitioner as well as 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 Goraul P. S. Case No. 116 of 2019
registered for the offences punishable under Sections 447, 448,
452, 323, 307, 302, 504, 506 read with 34 of the Indian Penal
Code.

The persecution case is based on *fardbayan* of the
informant alleging therein that on 15.04.2019 at about 04:00
P.M., while the informant was along with his nephew in his



house, in the meantime, all the F.I.R. named accused persons armed with *lathi*, *danda* and rod entered into their house and assaulted his nephew Md. Danish and other family members due to which Md. Danish died in course of treatment. The informant disclosed the name of all the persons, who have assaulted his nephew and others.

Learned counsel appearing on behalf of the petitioner submitted that from the F.I.R., it is evident that the informant is not an eye-witness to the alleged occurrence as he himself stated that on information, he reached at the place of occurrence and thereupon, all the accused persons fled away. It is also submitted that there is omnibus allegation levelled against all the accused persons including the petitioner and no specific allegation has been attributed against him. It is further submitted that there is counter version of the present offence being Goraul P. S. Case No. 120 of 2019 registered by father of the petitioner, namely, Md. Hasnain under Section 307 and other allied sections. In fact, a free fight was taken place wherein the members of both the sides have sustained injuries, however, the prosecution has failed to explain the injuries sustained over the members of the petitioner. It is further submitted that , the occurrence took place on 15.04.2019 but he present F.I.R. has



been instituted on 18.04.2019 after the death of Md. Danish, though, the informant was all along in PMCH and other places but no point of time any information has been given to the police and in fact, the present case is nothing but an afterthought and a piece of deliberation. It is next submitted that the person having identical allegation, namely, Md. Hasnain has already been granted bail by learned co-ordinate Bench of this Hon'ble Court in Cr. Misc. No. 2918 of 2021 vide order dated 19.03.2021. It is last submitted that with regard to the other co-accused persons, the police have submitted charge sheet showing them innocent and they have not been sent up for trial. While concluding the submission, he submits that the petitioner is in custody since 16.08.2021.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the petitioner and his family members are terror of the locality as even the *fardbayan* of the deceased was not brought to the knowledge of the Investigating Officer as in his *fardbayan*, he has categorically stated that all the accused persons including the petitioner in furtherance of common intention brutally assaulted, which resulted into his death. It is also submitted that in case, the petitioner would be released



from custody, he would be indulged in intimidating the witnesses and tampering with the evidences.

On the other hand, learned APP for the State also opposes the bail application.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the alleged occurrence took place on 15.04.2019 and the present F.I.R. has been instituted on 18.04.2019 with omnibus allegation against all and other co-accused person, having identical allegation has already been granted bail by learned coordinate Bench of this Hon'ble Court and even in the *fardbayan* of the deceased, which has been brought on record by filing a counter affidavit, the specific allegation has not been levelled against the petitioner and moreover, the petitioner having fair antecedent, is in custody since 16.08.2021, let the petitioner, above named, 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 Additional Chief Judicial Magistrate -I, Vaishali at Hajipur in connection with Goraul P. S. Case No. 116 of 2019, 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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