

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59890 of 2021

Arising Out of PS. Case No.-148 Year-2021 Thana- WARISLIGANJ District- Nawada

Kaushlendra Yadav @ Kaushlendra Kumar, Son of Arjun Yadav, Resident of
Village- Mosma, P.S.- Warisaliganj, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

3 29-04-2022 The applicant/accused in Crime No. 148 of 2021 registered with Warisaliganj Police Station for the offences punishable under Sections 341, 323, 325, 379, 337, 338, 307, 504 and 506 r/w Section 34 of the Indian Penal Code to which subsequently Section 302 of the Indian Penal Code is added on account of death of Sanjay Yadav, by this application is seeking his release on bail after filing of the charge sheet.

Heard the learned counsel appearing for the applicant/accused. He argued that vide order dated 31.01.2022 this Court had granted provisional bail to the applicant as the applicant was to appear for Joint Admission Test for Masters (JAM)-2022, held by the Indian Institute of Technology, Roorkee. It is further argued that in pursuance to the provisional bail granted by this Court, the applicant appeared



for that examination and now he is selected by placing him at serial no. 54 in All India Rank (AIR) in that Joint Admission Test for Masters conducted by the Indian Institute of Technology. Relying on the supplementary affidavit placed on record, it is argued that now the applicant is required to take admission. My attention is drawn to the communication from the Indian Institute of Technology, Roorkee placed at annexure 1 to the supplementary affidavit mentioning the All India Rank (AIR) of the applicant and direction of the Indian Institute of Technology, Roorkee that the admission is required to be taken in between 11th April 2022 and 11th May 2022. With this, it is argued that considering the meritorious record and his selection for Masters Degree by the Indian Institute of Technology, the applicant against whom omnibus allegations are there deserves to be released on bail.

The learned counsel for the applicant further argued that there are two versions of the incident in question. One found in the FIR lodged by Baso Yadav and the another found in the statement of his son Anil Yadav recorded at the Sadar Hospital, Nawada on 19.04.2021. It is argued that the prosecution wants to implicate as many persons as it can because Baso Yadav, the first informant has alleged assault by



three persons whereas his son Anil Yadav alleged assault by nine persons in the incident of homicidal death of Sanjay Yadav. It is further argued that genesis of the incident is also suppressed as Baso Yadav is stating that the incident took place at his house whereas his son Anil Yadav is stating that the incident took place on the road when deceased Sanjay Yadav was returning after easing himself. Relying on the report of postmortem examination, it is argued that it is difficult to hold that Sanjay Yadav was killed with an intention to commit his murder.

The learned Additional Public Prosecutor opposed the application by contending that offence alleged against the present applicant is serious and is punishable with life imprisonment.

I have considered the submissions so advanced and also perused the case diary as well as the supplementary affidavit filed on behalf of the applicant.

From Annexure 1 to that supplementary affidavit, it is clear that Suraj Kumar son of Arjun Yadav is selected for the Masters Degree Course conducted by Indian Institute of Technology by placing him at serial no. 54 in All India Rank (AIR). Name of the applicant in the FIR is stated as



Kaushlendra Yadav son of Arjun Yadav and in the supplementary affidavit, it is clarified that Kaushlendra Yadav son of Arjun Yadav is also known as Suraj Kumar son of Arjun Yadav. The communication from the Indian Institute of Technology makes it clear that selected candidates are required to take admission in between 11th April 2022 and 11th May 2022.

First informant Baso Yadav has named that Birendra Yadav, Kaushlendra Yadav (applicant) and Kaushal Yadav have assaulted his son Sanjay Yadav whereas his son Anil Yadav has stated that apart from the present applicant eight others had assaulted his brother Sanjay Yadav. Even the spot of the incident is stated differently by both these witnesses. Baso Yadv has stated that offence took place at his house whereas Anil Yadav has stated that incident took place on the road. Report of the postmortem examination of the deceased shows that there was swelling in right frontal region of the dead body. Bruises were found present on right frontal region of length 0.1 cm and diameter 0.5 cm. Similarly there was swelling in the right side of the chest with bruises of size 0.1 X 0.3 cm. On external examination heart was found enlarged in size and clot was found present in right side of the chest. The death was



stated to be because of Post Traumatic Shock due to HBS. The autopsy surgeon opined that the death may be because of Myocardial infarction. All these aspects assumes importance while considering the present application by student who has been selected for the Masters Degree Course conducted by the Indian Institute of Technology in the Joint Admission Test.

Considering peculiar facts and circumstances of the case so far as the present applicant is concerned, looking to the nature of the evidence available in the case diary, I am of the considered opinion that the applicant deserves to be released on bail in order to enable him to prosecute his further studies and therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 148 of 2021 registered with Warisaliganj Police Station be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.



(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

Needless to mention that this order is passed on considering peculiar circumstances of the case and it should not be construed for grant of parity to the other accused persons.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the appellant/accused.

(A. M. Badar, J)

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