

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60774 of 2021**

Arising Out of PS. Case No.-142 Year-2019 Thana- LAURIA District- West Champaran

MD. MANSFAR DEVAN @ MANSAFAR DEWAN S/o Late Ashique
Dewan @ Ashik Devan R/o village- Sheikh Toli, P.S.- Lauriya, District- West
Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Syed Qaisar Hasan

For the Opposite Party/s : Mr.Ashok Kumar

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

3 02-02-2022 Due to the third wave of COVID-19 Pandemic, the
matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders”
under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and the State
through virtual mode.

Learned counsel for the petitioner is directed to remove
the defect(s), as pointed out by the office, within a period of four
weeks after restoration of normalcy.

The petitioner seeks bail in Lauriya P.S. Case No. 142 of 2019
initially registered under Sections 147, 148, 149, 341, 323, 324, 427,
307, 506 of the Indian Penal Code and later on, Section-302 of the
Indian Penal Code was also added.

This is the second attempt on behalf of the petitioner for



seeking bail. Earlier prayer for bail of the petitioner was rejected vide order dated 07.12.2020, which is Annexure-1 to the present application, taking into account that three accused persons, including the petitioner, are said to have assaulted the deceased on head and the postmortem report of the deceased corroborates the allegations made in the F.I.R.

Learned counsel for the petitioner submits that the petitioner and co-accused Md. Shakil Ahmed are said to have assaulted the deceased on head by means of *Farsa* and co-accused Md. Anwar is said to have assaulted the deceased by lathi on his head and eye. It is further submitted that co-accused Md. Shakil Ahmed has been granted bail by a co-ordinate Bench of this court vide order dated 06-01-2021, which is Annexure-4 to the present application, taking into account that the postmortem report does not show any *Farsa* injury on the body of the deceased and so far as the assault by hard and blunt substance is concerned, the same has been attributed to co-accused. It is submitted on behalf of the petitioner that the petitioner stands on a similar footing and he is also alleged to have assaulted the deceased by *Farsa*. It is further submitted on behalf of the petitioner that there is case and counter case between the parties and the petitioner is in custody since 03-01-2020.

Learned APP appearing on behalf of the State has submitted that the petitioner is named in the F.I.R. and there is specific allegation of assault against the petitioner. He is one of the assailants.



From perusal of the postmortem report of the deceased, it appears that the deceased sustained as many as five external injuries out of which there are three abrasions on the head and two abrasions on knee. Further, there was contusion of white scalp with hematoma underneath the scalp. Moreover, there were multiple communicating fractures found on the skull bones which are indicated as internal injuries in the postmortem report. The doctor has opined that the injuries were caused by hard and blunt force impact and death was due to cranio cerebral damage consequent upon head injuries.

The contention raised by learned counsel for the petitioner that there is no *Farsa* injury found on the body of the deceased is misconceived. *Farsa* is a weapon which can cause both, an incised wound as well as an abrasion. All depends upon the side of the weapon which has hit the body. If the sharp-edged side of the weapon hits the body, the injury would be an incised wound and if the opposite blunt side hits the body, the corresponding injury would be a lacerated wound or abrasion. Perhaps, this fact has not been brought into the notice of the co-ordinate Bench during the hearing of the bail application of co-accused Md. Shakil.

A report was called for from the court below regarding the stage of the trial. The said report has been received and marked as Flag 'A'. It has been reported that charge has not been framed in this case as the court is vacant.

Considering the specific accusation of assault against the



petitioner and the postmortem report indicating multiple injuries both external and internal on the body of the deceased, as well as, taking into account that charge has not yet been framed, I am not inclined to grant bail to the petitioner. The prayer for bail of the petitioner is rejected.

The in-charge court is directed to take all necessary steps to frame charge, at the earliest, preferably within a period of two months from today and thereupon expedite and conclude the trial preferably within a period of nine-months from the date of framing of charge.

(Sudhir Singh, J)

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