

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63534 of 2021

Arising Out of PS. Case No.-64 Year-2021 Thana- DESARI District- Vaishali

SONU KUMAR S/O RAGHUVANSH RAY R/o village- Bajitpur Chak
Kasturi, P.S.- Desari (Sahdai O.P.), District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Awadhesh Kumar Singh

For the Opposite Party/s : Mr.Akshay Lal Pandit

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 24-08-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Desari P.S.
Case No. 64/2021 registered for the offences punishable under
Sections 341, 323, 384, 307, 379,/34 of the Indian Penal Code
later on added 302 of the Indian Penal Code.

As per prosecution case, there is accusation against the
petitioner to assault the informant by means of Hockey stick
causing grievous injury and during treatment he died.

Learned counsel for the petitioner submits that
petitioner is innocent and has falsely been implicated in this case.
The petitioner and the informant are own gotia and there is land
dispute between the parties. Learned counsel for the petitioner
further submits that during course of investigation informant's son
namely Jitendra Kumar in paragraph 24 of the case diary, said



before the police that petitioner assaulted by means of Iron rod on the intestine of his father causing grievous injury whereas the informant in his fardbeyan said before the police that the petitioner assaulted by means of Hockey stick on his intestine. There is contradictory statement of deceased and his son creating some doubt about the alleged occurrence. The occurrence took place on 18.02.2021 and the informant died on 16.03.2021 after one month. As per post-mortem report cause of death is due to septicemia. The petitioner is languishing in custody since 11.08.2021 and bears no criminal antecedent. He further submits that from perusal of the FIR, it is transpires that there is no specific allegation of repeated assault on vital part of body with deadly weapon against the petitioner. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

Learned counsel for the informant and learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner and submit that there is specific allegation of assault against the petitioner.

Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence, postmortem report totally inconsistent with the allegation as alleged in the FIR, argument advanced on behalf of



both sides and keeping in view clean antecedent of petitioner and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XV, Vaishali at Hajipur in connection with Desari P.S. Case No. 64/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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