

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.715 of 2022

Arising Out of PS. Case No.-559 Year-2020 Thana- GARDANIBAG District- Patna

Mangal Sharma @ Upendra Kumar S/o Surendra Sharma Resident of Road
No. 30, Khagaul Road, P.S.- Gardanibagh, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Ashok Kumar Sinha No.3, Advocate
For the Opposite Party/s	:	Mr. Jagdhar Prasad, APP
For the informant	:	Mr. Jata Shankar Jha, Advocate Ms. Sweta Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 20-09-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Gardanibag P.S. Case No. 559 of 2020 registered for the offence
under Sections 341, 223, 325, 307 and 34 of the Indian Penal
Code

The accused/petitioner is named in the F.I.R. and is in
custody since 27.01.2021.

The allegation against the petitioner is to assault
informant/deceased with knife along with other co-accused



persons, who subsequently, died during hospitalization after two days of occurrence.

Learned counsel appearing on behalf of the petitioner submitted that occurrence is nothing but a free fight and, as such, it cannot be gathered that petitioner was under intention to cause death of informant/deceased. It is also submitted that a counter case bearing Gardanibag P.S. Case No. 559 of 2020 has also been lodged by petitioner's side which is still under investigation. It is submitted that fatal assault was caused first by co-accused, namely, Rahis Kumar on the head of the deceased and subsequently, an assault was made by knife in abdomen of the deceased by this petitioner and, as such, it cannot be safely gathered that assault of this petitioner alone, caused death of the informant. It is further pointed out that the post-mortem report, where doctor, specifically, opined that combined effect of head injury and shock received due to assault by knife resulted to death of the informant. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel



appearing on behalf of informant submitted that there is specific allegation against this petitioner to assault with knife but fairly conceded that, as per post-mortem report, death was due to combined effect of head injury as alleged to be caused by co-accused Rahis Kumar.

It appears from the report of Trial Court that only two charge-sheeted witnesses were examined, till now, where petitioner is in custody since 27.01.2021.

Considering the facts and circumstances as mentioned above, as post-mortem report suggest death due to “combined assault” along with head injury, which has not alleged to be caused by this petitioner, in the back ground of free-fight coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Gardanibag P.S. Case No. 559 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-XIV, Patna/concerned court, subject to the following conditions:

“(i) That the accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court



itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be Deepak Kumar, who is the cousin brother of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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