

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19837 of 2023

Arising Out of PS. Case No.-128 Year-2021 Thana- MANIGACHI District- Darbhanga

MD. ASHRAF @ MD. ASHRAF NADAF S/o of Akbar Nadaf Resident of
Village-Bajitpur, P.S. Manighachi, District-Darbhangha

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Shahnawaz Ali, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

5 30-08-2023 Heard learned counsel for the petitioner, State and the
informant.

The petitioner is in judicial custody in connection with S.T. No. 275 of 2021 arising out of Manigachi Bajitpur (OP) P.S. Case No. 128 of 2021 for the offence punishable under Sections 147, 148, 149, 447, 341, 342, 323, 324, 307, 302 of the Indian Penal Code lodged on 2.6.2021 by the informant, Fakruddin Nadaf.

As per the prosecution story, the allegation against the accused persons is/are that they armed variously assaulted the informant's side and there is specific allegation against Md. Asraf and Md. Aftab of using iron rod causing injury on the head and neck of informant's brother Md. Salauddin which resulted into his death.



There is/are allegation against other accused also of inuring the informant's side. Accordingly, the FIR.

It is the case of the petitioner that one after another all the accused persons granted bail as omnibus allegation is/are there. He submits that he is incarcerating alone in the present case which is against the norms/law/articles which grant liberty to a Citizen of India.

Learned counsel for the informant on the other hand submits that the petitioner cannot acquit himself from the other accused persons as there is omnibus allegation against them while specific allegation is against him as also Md. Aftab of giving repeated iron blow on the deceased on his head and neck both of which are vital parts. It is his submission that even the deceased had the right to live.

To the query regarding fate of Md. Aftab in the backdrop of the repeated submission of the learned counsel for the petitioner that he is alone incarcerating in jail, the learned counsel for the informant submits that he is still absconding.

Further submission is that lacerated wound are there on the person of the deceased which has come in the post-mortem report. It is his submission once that has been found on the person of the deceased, it fully support the prosecution



theory that iron rod was used to assault the deceased.

A report was called for by earlier bench which has since been received vide letter 662 dated 11.8.2023, according to which, out of six witnesses, two have been examined and rest are to be examined.

Considering the specific allegation that has come against the petitioner that he has given repeated iron rod blow along with Md. Aftab causing instant death of an innocent person so far as bail part is concerned, no relief can be granted to him and the bail application stands rejected.

It is expected that the trial court will take the trial to its logical conclusion without any delay, preferably within a period of one year.

(Rajiv Roy, J)

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