

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21107 of 2023

Arising Out of PS. Case No.-407 Year-2020 Thana- MADHEPURA District- Madhepura

Sharwan Kumar @ Shravan Kumar @ Shrawan Das, Son of Badri Das
Resident of Village - Dhurgaon, Ward No.- 11, P.S.- Madhepura (Bharrahi
O.P.), District - Madhepura.

... .. Petitioner.

Versus

The State of Bihar

... .. Opposite Party.

Appearance :

For the Petitioner : Mr. Uday Chand Prasad, Advocate.
For the State : Mr. Anil Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

2 12-05-2023 The applicant/accused in Sessions Trial No.200 of 2022 pursuant to Crime No.407 of 2020 registered with Police Station-Madhepura (Bharrahi O.P.) for the offences punishable under Sections 341, 323, 324, 307, 354, 506, 379 read with Section 34 of the Indian Penal Code in which subsequently Section 302 of the Indian Penal Code came to be added, by this application is seeking his release on bail during the pendency of the trial. This is second bail application. The earlier one was rejected vide order dated 04.01.2022.

The learned counsel for the applicant argued that there was only one blow and, as such, there cannot be an intention to commit murder. The applicant is undergoing pretrial detention since 24.07.2020 and, therefore, he is entitled for bail.



It is apposite to put on record the last paragraph of the earlier order dated 04.01.2022 to which is complete answer to the argument that the offence punishable under Section 302 of the Indian Penal Code is not made out. It reads thus:

“Evidence collected by the prosecution shows that the applicant had given one blow of iron rod on head of the deceased Anmol Kumar. The post mortem examination of the deceased shows that this one blow had caused fracture injury and had resulted in multiple extradural hematoma in the brain causing death of Anmol Kumar. The intention is not sole criteria for making out the offence of murder. If the act is done with intention of causing bodily injury to any person and such bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death then also the offence of murder is made out. Similarly, if a person committing the act knows that the act is so imminently dangerous that it must in all probabilities cause death or bodily injury likely to cause death and in incurs the risk of causing such injury then also the offence of murder is made out. In the instant case, single forceful blow of an iron rod had cause multiple extradural hematoma apart from fracture of the scalp causing the death. Hence, at this stage it cannot be said that offence of murder is not made out. The delay in lodging the FIR is



a matter which is to be gone into after the trial.”

The offence alleged against the applicant for which there is evidence on record is the one punishable under Section 302 Indian Penal Code. Therefore, the only argument that the applicant is undergoing pretrial detention from 24.07.2020 cannot impress the Court to hold that this amounts to change in circumstances. The application is, accordingly, rejected. The applicant is free to seek early hearing of the trial before the learned trial court.

(A. M. Badar, J)

P.S./-Bhardwaj

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