

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51937 of 2023

Arising Out of PS. Case No.-270 Year-2023 Thana- ARWAL District- Jehanabad

Shiv Kumar Paswan S/O Bhola Paswan R/O Village- Korara, Ps. Paliganj,
Dist. Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

3 11-10-2023 Let the defect(s), if any, be removed within two weeks
from today.

2. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

3. The petitioner seeks regular bail in connection with
Arwal P.S. Case No. 270 of 2023 dated 31.05.2023, lodged
under Section 302 of the I.P.C.

4. As per the prosecution case, the F.I.R. has been
lodged against three named accused persons including the
petitioner. In the F.I.R., the informant who is mother of the
deceased disclosed that on 30.05.2023 his son went with Sudhir
Kumar @ Chotu and thereafter not returned and on suspicion,
the name of petitioner has figured in this case that the petitioner
and his sons have killed and eloped the dead body of the

informant's son.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Counsel submits that the petitioner is in custody since 06.06.2023 in which charge-sheet has already been filed and there are two criminal cases pending against the petitioner in which he is on bail. Counsel submits that the cause of death of deceased is due to accident, as he has annexed Annexure- 2 in which injury has been caused only in left part of the body.

6. Learned counsel for the State opposes the prayer for bail and submits that in paragraph-13 of the case diary, the statement of sole eye witness of the occurrence is there, who disclosed that in the evening, he and the deceased reached *Kodra* at about 09:15 pm. They stopped near *peepal* tree, then the petitioner reached their by his motorcycle and scuffling between the deceased and the petitioner started. Subsequently, with a view to save their lives, the decease and the witness left from the place but subsequently, after sometime they stopped the vehicle to see that whether anybody is following them or not.

7. It has been intimated by the sole eye witness that it was the night of new moon and in the meantime, some persons

other than the petitioner reached there and started assaulting the deceased by *lathi*. Due to injury, deceased was not in a position to stand. It has also been disclosed that series of injuries were caused on his body and head by *lathi* and *danda*. After sometime, the deceased become unconscious and died.

8. In response thereof, counsel for the petitioner raised the points which has been observed in post-mortem report and submits that in the post-mortem, it has been found that there were six injuries but all the injuries are present on the left side of the body and, therefore, counsel for the petitioner submits that the death has been caused due to accident because in the accident only one side of the body can be damaged.

9. Upon going through the post-mortem report as well as statement of eye witness under Section 161 of the Cr.P.C., it transpires to this Court that the fight took place on two occasions. On first occasion, the fight took place between the petitioner and the deceased but second time, the petitioner was not present and it has been stated that injury has been caused by *lathi* and *danda* indiscriminately on the body which is not matching with the injury present and found in the post-mortem report.

10. In the present facts and circumstances of this case

and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs. 30,000/- (Rupees Thirty Thousand Only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Arwal in connection with Arwal P.S. Case No. 270 of 2023, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bonds by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty

to take steps for cancellation of the bail bonds.

11. With this observation, the bail application stands
allowed.

(Dr. Anshuman, J.)

sadique/-

U		T	
---	--	---	--