

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57055 of 2023

Arising Out of PS. Case No.-527 Year-2022 Thana- DESARI District- Vaishali

Mithun Paswan S/O Bhuklu Paswan R/O Village- Khorampur, Ps. Desari
(CHANDPURA O.P.), Dist. Vaishali

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 08-11-2023

1. Heard learned counsel for the parties.

2. The petitioner has preferred this application for grant of regular bail in connection with Desari (Chandpura O.P.) P.S. Case no. 527 of 2022 registered under sections 302, 447, 448, 341, 323, 379, 436, 504 and 34 of the Indian Penal Code.

3. As per the prosecution case, it is stated by the informant that on account of an earlier dispute, the six named accused persons including the petitioner herein came variously armed with *lathi*, *danda*, *garasa* etc. They started to abuse the informant and on the family members of the informant intervening, they were assaulted. It is stated that the petitioner threw the 1 year 8 month old child of the informant and thereafter stepped on his hydrocele. The child was taken to the doctor but was declared dead.



4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case. The injury/postmortem report does not support the prosecution case as narrated in the F.I.R as no injury has been found on the body of the deceased child. The opinion on the cause of death was reserved for forensic and toxicological examination wherein also no adverse report has been received. The petitioner is in custody since 15.1.2023 and has no criminal antecedent. He undertakes to cooperate in the trial. It is further submitted that the police did not submit charge-sheet under section 302 of the Indian Penal Code, however the learned Court below differing with the police report, on the materials in the case diary took cognizance under section 302 of the Indian Penal Code besides other sections.

5. The prayer for bail is opposed by learned A.P.P for the State.

6. Having heard learned counsel for the parties and taking into consideration the material on record, the allegations against the petitioner in the F.I.R wherein specific allegation of assault on the informant's child is made against him together with the contents of the postmortem report wherein the doctor conducting the postmortem examination found external injury



on the scrotum of the deceased, the Court is not inclined to
enlarge the petitioner on bail and the application is rejected.

7. Learned trial Court is directed to expedite the trial.

(Partha Sarthy, J)

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