

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57847 of 2023

Arising Out of PS. Case No.-72 Year-2023 Thana- NIRMALI District- Supaul

HARI SINGH S/O LATE BIHARI SINGH R/O VILLAGE - DIGHIYA, P.S. -
NIRMALI Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gopal Kumar Jha, Advocate

For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 01-09-2023 Heard the parties.

The petitioner is an accused in connection with Nirmali P.S. Case No. 72 of 2023 (G.R. No. 299 of 2023) registered for the offences under sections 302 and 34 of the Indian Penal Code lodged on 31.03.2023 by the informant, Surendra Rai.

As per the prosecution story, the allegation is that the accused persons were digging pillar in the land of the informant and when his father objected to it, he was severely assaulted, causing his death. This followed the FIR.

It is the case of the petitioner that in the FIR, omnibus allegation against the accused persons have been made, though, the informant has made allegations which is completely out of context. The fact remains that there was a scuffle by both sides as a result, whereof the deceased who probably was weak and tried to sit on a bench, became unconscious, fell on the ground and thereafter died.



In such circumstances, the police after recording the statement of the independent witnesses ultimately filed charge sheet under section 304 of the Indian Penal Code. He submits that the same has been observed by the learned Session Judge while rejecting the bail petition of the petition on 08.08.2023.

Learned APP for the State, on the other hand, opposes the prayer for bail stating that though omnibus, allegation is of assault causing death of the informant's father.

Having gone through the facts on record, the observation of the learned Sessions Judge, the submissions put forward by the parties as also that the charge sheet has been submitted under section 304 of the Indian Penal Code, omnibus allegation is there against the accused persons, the petitioner is in custody since 06.05.2023 (as stated in paragraph 12 of the bail application) and do not have criminal antecedent, this Court is inclined to extend him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned A.C.J.M., Birpur in connection with Nirmali P.S. Case No. 72 of 2023 (G.R. No. 299 of 2023), subject to the 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 bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next 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 evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(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.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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