

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45333 of 2024

Arising Out of PS. Case No.-47 Year-2024 Thana- SAHEBPUR KAMAL District- Begusarai

Kundan Paswan Son of Bhola Paswan Resident of Village - Sahebpur Kamal,
P.S. - Sahebpur Kamal, District - Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Durgesh Nandan, Advocate
For the State	:	Mr. Bharat Bhushan, APP
For the Informant	:	Mr. Rashid Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 18-09-2024 Heard Mr. Durgesh Nandan, learned counsel for the petitioner, Mr. Bharat Bhushan, learned APP for the State as also Mr. Rashid Alam, learned counsel for the informant.

2. The petitioner is in custody in connection with Sahebpur Kamal P.S. Case No. 47 of 2024 for the offence punishable under sections 143, 341, 323, 307, 325, 379, 504 and 506 of the Indian Penal Code lodged on 26.02.2024 by the informant, Rahul Kumar.

3. As per the prosecution story, the informant alleged that the accused persons armed variously assaulted both Dharamveer Kumar (since deceased) as also the informant and so far as the allegation against the first set of accused, Dilip Paswan, Guddu Paswan, Kundan Paswan (petitioner herein), Kare Paswan and Suraj Paswan are concerned, they gave



wooden/iron rod blow on the head of Dharamveer Kumar while Bucchi Paswan, Ramdas Paswan, Arvind Paswan and Rajesh Paswan gave iron/wooden rod blow on the head and hand of the informant causing injury/fracture. The further allegation is of taking away gold chain. Accordingly, the F.I.R.

4. Learned counsel for the petitioner submits that the coordinate Bench had called for the case diary and two independent witnesses have made statements in paragraph nos.71 and 72 which shows that the main role has been assigned to Suraj Paswan who gave the fatal *lathi* blow on the head of Dharamveer Kumar causing severe injury, bleeding which ultimately led to his death. Again, so far as the informant's injury is concerned, allegation of using *lathi* is on Kare Paswan. Later, the villagers came and pacified the matter whereafter they were sent to hospital, Dharamveer Kumar succumbed to the injury.

5. Learned counsel appearing on behalf of the informant submits that though two independent witnesses have made specific allegation against Suraj Paswan, Kare Paswan of assaulting Dharamveer Kumar and the informant respectively, the fact remains that all of them armed variously gave blows which caused the death of Dharamveer Kumar as such, they



being the terror, cannot be granted bail.

6. Learned APP also echoes the statement of the learned counsel for the informant but submits that having gone through paragraph nos.71 and 72 of the case diary, two independent witnesses have given specific role to Suraj Paswan and Kare Paswan.

7. Considering the aforesaid submissions of the parties as also having gone through the case diary and the statements pointed out by the learned counsel for the petitioner/informant/learned APP which makes Suraj Paswan and Kare Paswan the main assaultants/accused persons responsible for causing the injuries on the deceased as also the informant, the assault theory on this petitioner has not been made by the two independent witnesses and considering the said fact as also his period of custody since 17.03.2024 (paragraph no.1 of the petition), this Court is inclined to extend him the privilege of bail.

8. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai, in connection with Sahebpur Kamal P.S. Case No. 47 of 2024, subject to the following conditions:



(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her 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 fortnight for one year to mark his 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 the 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 his bail bonds.

(Rajiv Roy, J)

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