

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53364 of 2024

Arising Out of PS. Case No.-9 Year-2023 Thana- AKILPUR District- Saran

Manager Rai S/O Late Jagdish Rai R/O Akilpur, P.S.- Akilpur, Distt.- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarveshwar Tiwary, Advocate

Mr. Subodh Kumar Jha, Advocate

For the Opposite Party/s : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 25-09-2024 Heard the learned Advocate for the petitioner and the learned APP for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Akilpur P.S. Case No. 09 of 2023, registered for the offence punishable under Sections 341, 323, 307, 302, 448 and 504/34 of the Indian Penal Code.

3. Allegedly, while the mother of the informant was working at her door, in the meantime, on account of some dispute arising out of covering of the drain some exchange of hot talk has taken place, whereupon, the petitioner along with others started abusing and on protest being made, the petitioner assaulted the mother of the informant by means of brick, due to which she sustained injury and subsequently during the course of treatment died. There is omnibus nature of allegation against



other accused persons.

4. Learned Advocate for the petitioner drawing the attention of this Court to the narratives made in the FIR contended that the FIR clearly suggest that on account of a trifle, as had arisen due to covering of the drain, on a spur of moment, the petitioner has assaulted the mother of the informant by means of brick. Even if the allegation taken to be true, neither it was premeditation nor it was intentional to cause death of the deceased and, as such, hardly it can be a case under Section 304(I) of the Indian Penal Code. Neither there is allegation of repetition of assault nor any weapon has been used. The post-mortem report also suggest that the deceased has sustained only one injury. Now the petitioner has been incarcerated for over a period of about one year and six months. However, till date, even the charge has not been framed.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the specific allegation has been levelled against the petitioner of causing assault, leading to the death of the deceased.

6. Regard being had to the submissions made on behalf of the parties and considering the nature of allegation as also the genesis of dispute, coupled with fair antecedent of the



petitioner and the period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Saran at Chapra in connection with Akilpur P.S. Case No. 09 of 2023, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in



terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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