

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51216 of 2024

Arising Out of PS. Case No.-400 Year-2023 Thana- PHULWARIYA District- Gopalganj

Rizwan Miyan @ Rajwan Miyan @ Rizwan Hussain Son of Rojid Miyan R/O
Vill- Manjha Chaturbhuj, P.S.- Phulwaria (Shreepur O.P.), District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Javed Aslam, Adv.

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

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

6 06-09-2024 Heard learned counsel for the petitioner and learned
A.P.P for the State.

2. The petitioner seeks bail in connection with S.T. No. 147 of 2024 arising out of Phulwaria (Shreepur O.P.) P.S. Case No. 400 of 2023 dated 06.11.2023 registered for the offence punishable under Sections 147, 148, 149, 341, 323, 325, 307 and 302 of the Indian Penal Code.

3. The prosecution case, in short, is that on 06.11.2023 at 06.10 A.M. Rojid Miya and Rizwan Miya came to their house from Hazaribagh by Scorpio bearing Reg. No. JH01FE0924. Rojid Miya, Rizwan Miya, Taira Khatoon, Shabnam Khatoon and Shabu Khatoon having lathi and danda came at the house of the informant and started abusing. On protest made by the father



of the informant, namely, Usman Miyan, they assaulted him by lathi and danda. It is alleged that Rojid Miya asked his son Rizwan Miya to kill him by dashing with the vehicle. Thereafter, Rizwan Miya crushed the informant's father by Scorpio. As a result of which, he died on the spot. Ali Hussain, Noor Alam Ansari and Asif Raza tried to rescue him then Rizwan Miya ran over the Scorpio on them. As a result of which, leg of Ali Hussain was broken and two others became injured. On information, police reached and sent the dead body of informant's father for postmortem to Sadar hospital, Gopalganj. Other three injured got their treatment in Referral Hospital, Hathua. The reason behind the occurrence is land dispute between the parties.

4. Learned Counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is submitted that after investigation the police submitted charge sheet under Sections 341, 323, 325 and 304/34 of the Indian Penal Code but learned Magistrate differing from the police report took cognizance under Section 147, 148, 323, 341, 325, 307 and 302/34 of the Indian Penal Code. It is submitted that petitioner is the driver, who crushed and killed the informant's father by dashing him against the Scorpio vehicle on



the order of Rojid Miya due to which he died on the spot. When Ali Hussain, Noor Alam Ansari and Asif Raza tried to rescue him then Rizwan Miya ran over the Scorpio on them. There is case and counter case between the parties. Counter case has been lodged by co-accused Taira Khatoon bearing Phulwaria (Shreepur O.P.) P.S. Case No. 411 of 2023 against the prosecution party including the informant. It is submitted that there is land dispute between the parties. Lastly, it has been submitted that the petitioner is in custody since 07.11.2023, having no criminal antecedent and charge-sheet has been submitted in the case.

5. Learned A.P.P for the State opposes the prayer for bail of the petitioner.

6. It is submitted that there is ample evidence in the case diary to suggest that commission of offence has been made by the petitioner, who was sitting in the Scorpio and was driving the said Scorpio at the time of incident. When Ali Hussain, Noor Alam Ansari and Asif Raza tried to rescue informant's father then Rizwan Miya ran over the Scorpio on them.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, I am not inclined to grant bail to the petitioner.



8. Accordingly, the prayer of the petitioner for grant of bail is **rejected**.

9. The petitioner is at liberty to renew his prayer for bail after framing of charges against him.

(Khatim Reza, J)

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