

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56391 of 2024

Arising Out of PS. Case No.-100 Year-2024 Thana- KATHAIYA District- Muzaffarpur

Nitish Kumar @ Nitesh Kumar Son Of Late Shashibhushan Singh Village-
Jagdavan Chhapra, Ps- Kathaiya, Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Adv.

For the Opposite Party/s : Mr. M.K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 29-11-2024 Heard Mr. Nachiketa Jha, learned Advocate for the

petitioner and Mr. M.K. Nirala, learned Additional Public

Prosecutor for the State. The informant is represented through Mr.

Mazharul Hasan, learned Advocate.

2. The petitioner apprehends his arrest in connection
with Kathaiya P.S. Case No. 100 of 2024, registered for the
offences punishable under Sections 302 and 34 of the Indian Penal
Code.

3. The marriage of the elder sister of the informant was
solemnized with Balmiki Singh about ten years ago. They were
also blessed with two children one son and one daughter, aged 7
years and 6 months respectively. It is alleged that as the brother-in-
law of the informant works in Pune, he used to live there. On the
alleged date of occurrence, the informant came to know that all the
FIR named accused persons assaulted his sister on account of a
family feud and partition due to which she sustained serious injury

over her head, which proved fatal.

4. Learned Advocate for the petitioner drawing the attention of this Court to the FIR submits that admittedly the informant is not an eye witness to the alleged occurrence. It has also not been disclosed that from whom he came to know that it is the petitioner and others, who have assaulted the deceased. Drawing the attention of this Court to the statements of the independent witnesses, recorded in Paragraph 56 and 57 of the Case Diary, it is submitted that none of them have supported the prosecution case; however, they have stated that in the scuffle co-accused Vivek Kumar pushed the deceased down due to which she sustained injury over her back side of the head; which fact has also been corroborated in the postmortem report. It is next contended that the petitioner is a college going student and in case if he is sent behind the bars his entire career would be ruined. The petitioner bears fair antecedent and he undertakes that he will fully cooperate in the investigation.

5. On the other hand, learned Advocate for the State and informant vehemently opposes the pre-arrest bail application and submits that there is specific allegation against the petitioner. The occurrence has taken place within the closed premise and it is the petitioner, who must disclose as to how she died. It is next contended that the mother of the petitioner has been granted

regular bail and, as such, the petitioner does not deserve the privilege of anticipatory bail.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that there is no eye witness to the alleged occurrence and even during the course of postmortem only one injury over the head of the deceased has been found. The independent witnesses have not supported the prosecution case and even if their statement is taken to be true, it is against co-accused Vivek Kumar; moreover, the petitioner is a student having fair antecedent, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M. in connection with Kathaiya P.S. Case No. 100 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J.)

Jyoti Kumari/-

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