

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62553 of 2024

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

Suraj Kumar @ Gaurav Kumar Paswan SON OF DILIP PASWAN
VILLAGE-AND PS- SAHEBPUR KAMAL, WARD NO. 06, DSIT-
BEGUSARAI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Kaushal Kumar Jha, Sr. Advocate Mr. Siddharth Aditya, Advocate
For the Opposite Party/s	:	Mr. Bharat Bhushan, APP
For the Informant	:	Mr. Rashid Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 10-12-2024 Heard Mr. Kaushal Kumar Jha, learned Senior
counsel for the petitioner and Mr. Rashid Alam representing the
informant as also learned APP, Mr. Bharat Bhushan.

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 came to their place and
started abusing them. When the informant complained that earlier
also that they had injured his brother but the informant did not
lodged any FIR, why the second attempt. The allegation is that



thereafter all the accused persons assaulted them with iron rod/wooden rod causing head injury to his brother Dharamveer Kumar who ultimately died in Amrit Jeevan Uttpal Hospital. This led to the FIR.

4. Learned Senior counsel for the petitioner submits that though in earlier case of Kundan Paswan (Cr. Misc. No. 45333 of 2024), this Court observed that Suraj Paswan and Kare Paswan are the main assailant, the same was based on the statements recorded by the independent witnesses in paragraphs 71 and 72 of the case diary. However, certain facts he deems it proper to bring to the notice of the Court.

5. It is his submission that the informant is an eye-witness and according to him, all the accused persons armed variously assaulted the brother causing injury. He has also taken this Court to the paragraph-59 which is the statement of the wife of the deceased wherein also the lady has made allegation that all the named accused armed variously assaulted causing injury to the deceased.

6. Learned Senior counsel submits that subsequently to save the skin of certain blue-eyed boys, the Sub-Divisional Police Officer, Begusarai in paragraph-65 singled out the name of the Suraj Paswan and only thereafter in paragraphs-71 and 72, the independent witnesses have named him as an accused who



gave blow to the informant's brother. He submits that the petitioner, Kundan Paswan while seeking his bail, completely blacked out the statements of the informant/the wife of the deceased and harped on paragraphs-71 and 72 which resulted into recording of Suraj Paswan as main assailant while the relief was granted to him. He further submits that the petitioner is in custody since 27.02.2024 and if granted relief, shall be diligently appearing in trial and upon default even for a single day, the prosecution shall be free to take steps for cancellation of his bail bond.

7. Learned counsel appearing on behalf of the informant has taken this Court to the paragraphs 71 and 72 to show that the independent witnesses have made this Suraj Paswan as the accused who gave blow on the head. He further submits that they assaulted the informant's brother which proved fatal.

8. Having gone through the facts of the case as also the submissions of the parties, though in the case of Kundan Paswan, it has been recorded that Suraj Paswan has been found to be the main assailant as per the paragraphs 71 and 72 of the case diary, a different story has now been narrated by the learned Senior counsel that both the informant and the wife of the deceased who too are the independent witnesses, there statements cannot be



ignored. The informant being present throughout at the time of occurrence as also shifting of the brother to the hospital where he succumbed to the injuries, has talked about omnibus allegation and not specific against this petitioner. Same is the case of the lady.

9. Having gone through the facts of the case as also the submissions of the parties, though this Court has recorded Suraj Paswan as the main assailant in the case of Kundan Paswan (supra), in view of the further submissions that has been brought on record by the learned Senior counsel attributing the statement of the deceased's wife as also the informant in paragraphs 58 and 59 coupled with the fact that they have made a complaint regarding this change of track before the appropriate authority, the petitioner is in custody since 27.02.2024, an undertaking has been given that he shall be diligently appearing in trial and failure to attend the Court even for a single day, the prosecution shall be free to take recourse for cancellation of his bail bond, in that background, this Court is inclined to extend him the privilege of bail with conditions.

10. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned A.C.J.M-IV, 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 a single date 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 till conclusion of the trial 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)

Adnan/-

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