

In The Court Of Addl. District & Sessions Judge-VI, Jamui
S.Tr. - 316/2022

State

Vrs.

Mohan Mahto & Others

U/S- 147, 148, 149, 341, 323, 324, 325, 326, 307, 302, 447, 504 I.P.C.

Learned Counsel for petitioner -
Learned Counsel for the State -

Sri Parimal Kumar Singh, Advocate
Sri Ramakant Singh, A.P.P.

Present: DHIRENDRA BAHADUR SINGH
Additional Sessions Judge-VI, Jamui
Dated 20th July 2022

20.07.2022

Regular bail application dated 14.07.2022 filed on behalf on petitioner/accused Ramdev Mahto S/O Late Pavitra mahto, R/O Vill-Gadi Telwa Bazar, P.S-Simultala, Dist-Jamui is put up before me for order today in connection with Sessions Trial case no. 316/2022 arising out of Simultala P.S case no. 92/2021 and the petitioner has been in custody since 27.02.2022.

Heard both sides.

Learned counsel for the petitioner submitted that he is quite innocent and has committed no offence. He submitted that no other regular or anticipatory bail application has been filed either before the Sessions Court or before the Hon'ble High Court, Patna except the present one. He further submitted that there is an allegation against the petitioner that he assaulted to the deceased by means of an axe on the chest and due to that the deceased got fainted. He also submitted that petitioner has got criminal antecedent vide Simultala P.S. Case No. 35/2019 in which the petitioner is on bail. He further submitted that other co-accused Nageshwar Mahto has been allowed bail by the Hon'ble High Court, Patna vide Criminal Misc.No. 18058 of 2022 and case of the petitioner stands on similar footing. He also submitted that Simultala P.S case No. 56/2021 was registered against the members of prosecution party for the murder of Raj Kumar Mahto and due to that the petitioner has been implicated in this case with an ulterior motive. Hence prayed to enlarge the petitioner on bail.

On the other hand learned A.P.P for state strongly opposed the bail application of the petitioner and submitted that there is specific allegation of assault against the petitioner on the vital part of the body of the deceased and there are rival cases of murder in between the parties and release of the petitioner may further aggravate the situation. He also submitted that the petitioner is a man of criminal antecedent. Hence prayed to dismiss the bail application of the petitioner.

The prosecution case in brief that one Kapildev Mandal submitted written report to S.H.O Simultala on 02.12.2021 alleging therein that on 02.12.2021 at 10:00 am., he alongwith others went to his field situated at Kanharwa Bahiyar-Dewana Baba, near Mahua tree for harvesting paddy crop and in the mean time accused persons surrounded his brother in the field of Shyam Yadav and assaulted him. It has further been aleged that January @ Rajesh mahto, Ganesh Mahto, Mohan Mahto, Sudhir Mahto, **Ramdev Mahto**,

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Heard
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Gautam mahto, Uttam Mahto, Kishor Mahto, Nandlal Mahto, Manoj Mahto, Vijay Mahto, Vinay Mahto, Mukesh Mahto, Suresh Mahto, karu mahto, Vikash Kumar, Nanki Devi and Runa Devi variously armed with axe, rod and Lathi came to the paddy field of the informant and started to abuse him and forbade the informant from harvesting paddy crop and there was claim and counter claim in between the parties regarding paddy field. One Janwaria Mahto gave an axe blow on the right leg of Mithu Mahto below the knee and blood started to ooze out and the bone got fractured. One Ganesh Mahto gave an axe blow on the left leg of Mithu Mahto below the knee and the left leg got amputated and blood started to ooze out. Mohan Mahto and Sudhir Mahto assaulted on right and left hand by means of Rod and due to that both hands of Mithu Mahto got fractured. **Ramdev Mahto**, Uttam Mahto, Gautam Mahto, Kishore Mahto and Nandlal Mahto repeatedly assaulted to Mithu Mahto on his chest by means of butt portion of axe and Mithu Mahto got fainted. Manoj Mahto assaulted to Govind Mahto by means of rod on his left hand and the same got fractured and he also assaulted to Mithu Mahto on his back by means of rod. Vijay Mahto and Vinay Mahto assaulted to Govind Mahto on his head by means of axe with intent to kill him and blood started to ooze out. It has further been alleged that Vijay Mahto and Vinay Mahto assaulted to Mithu in his abdomen. Sunil Mahto and Suresh Mahto assaulted to Govind Mahto by means of axe and they also assaulted Mithu on his thigh. Further karu Mahto, Vikash Kumar, Nanki Devi, Runa Devi, Gautam Mahto and wife of Uttam Mahto, Wife of Ganesh Mahto, Wife of Manoj Mahto, wife of Suresh Mahto and wife of Sunil Mahto and **Nageshwar Mahto** assaulted both the injured by means of Lathi and in the mean time other family members of the informant came there and accused persons fled away by saying that Mithu and Govind died. The injured were taken to Jhajha referral Hospital and from there, the injured were referred to Sadar Hospital, Jamui and Mithu Mahto died in the way and treatment of Govind Mahto started at Sadar Hospital, Jamui. Lastly it has been alleged that earlier father of Mithu Mahto and Govind Mahto was assaulted by accused persons and for that **Simultala P.S case no. 35/2019** and **Simultala P.S case no. 22/2021** was registered earlier and due to previous enmity accused persons killed Mithu Mahto and inflicted serious injury on the person of Govind Mahto and accused persons threatened that they would not spare a single family member. On the basis of written report Simultala P.S case no. 92/2021 U/S 147, 148, 149, 341, 323, 324, 325, 326, 302, 307, 447, 504 I.P.C. was registered on 02.12.2021.

Having heard the submission of the parties and from perusal of the case record and case diary para no. 1, 2, 3, 4, 5, 9, 10, 11, 12, 43, 52, 53, 58, 59, it is apparent that there is specific allegation of assault to the deceased against the petitioner by means of axe. As per postmortem report following injuries were found on the person of the deceased-

- I. Fracture of left hand little fingre bone.
- II. Externely seen swelling of both palm in lateral side.
- III. Lacerated wound in right hand between middle and ring finger. 1/2"x muscle deep 1".

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IV. Sharp cutting wound in left foot below knee 2"x 2" deep and cut of tibial vein and arteries with fracture of left tibia and fibula bone.

V. Sharp cutting wound in right foot below knee 1"x1.5" muscle deep with fracture of right tibia and fibula bone. Clotted blood present in both foot below knee.

VI. Sole swelling of occipital region 2"x 2" with red black in colour in mid portion.

On dissection of skull- Swelling of occipital region 2"x2" and fracture of occipital bone and clotted blood present under skull in mid occipital portion.

Cause of Death:-

Due to hemorrhagic shock and fracture of mid occipital bone, above injury.

From case diary para no. 59, it is apparent that the petitioner has got criminal antecedent vide Simultala P.S case No. 35/2019 U/S 147, 148, 149, 341, 323, 307, 504, 506/34 I.P.C. and this case relates to assault to father of the deceased/injured of the present case. Thus it is apparent that the petitioner is a habitual offender and earlier he has been made an accused in a case lodged for the murderous attempt made on the life of father of the deceased/injured of the present case and his case stands on completely different footing to the case of Nageshwar Mahto who has been allowed bail the by Hon;ble High Court as there is no specific allegation of assault against the petitioner Nageshwar Mahto and Nageshwar Mahto was not an accused in Simultala P.S case No. 35/2019 U/S 147, 148, 149, 341, 323, 307, 504, 506/34 I.P.C. Charge has already been framed against the petitioner in this case u/s-147, 148, 323, 324, 325, 326, 307, 302/149, 504, 506, 447 I.P.C. Rival cases of murder are pending in between the parties and release of the petitioner may further aggravate the situation.

Cosidering aforesaid facts and circumstances of this case, especially the fact that the petitioner is also an accused in the case lodged for murderous attempt made on the life of father of the deceased prior to the present case and there is specific allegation of assault to the deceased Mithu Kumar @ Amrendra Kumar@ Mithu Mahto against the petitioner, the regular bail application of the petitioner Ramdev Mahto stands dismissed.



Dictated
Ahirendra Bahadur Singh
20.07.2022
A.D.J-VI
Jamui