

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.1018 of 2020**

Arising Out of PS. Case No.-165 Year-2016 Thana- ALOULI District- Khagaria

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DHARMBIR YADAV @ DHARMVIR YADAV Son of Rama Nand Yadav
Resident of Village-Morkahi, P.S-Alauli, District-Khagaria, at present village-
Belahi Tola, P.S.-Chiraiya (O.P), District-Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Shekhar Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Akhileshwar Dayal, APP Incharge
For the Informant	:	Mr. Sarvottam Sarkar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 08-09-2020 Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned A.P.P. in absence of Mr. Ansar Ul Haque, A.P.P. and Mr. Sarvottam Sarkar, learned counsel representing the informant.

Petitioner in the present case is seeking regular bail in connection with S.T. No. 122 of 2019 arising out of Alauli P.S. Case No. 165 of 2016 registered for the offence under Sections 364, 302, 120(B), 34 of the Indian Penal Code and Section 27 of the Arms Act, pending in the court of learned F.T.C. - I, Khagaria.

Earlier the prayer for regular bail of this petitioner was rejected by a learned coordinate Bench of this court vide



order dated 28.11.2018 in Cr. Misc. No. 61753/2018 and again vide order dated 04.07.2019 in Cr. Misc. No. 40182/2019. The subsequent attempt to obtain provisional bail was also rejected vide order dated 28.08.2019 passed in Cr. Misc. No. 51952/2019.

Mr. Shekhar Kumar Singh, learned counsel for the petitioner has made many fold submissions once again at this stage. His first submission is that the dead body of the deceased was not seized by the police on the place of occurrence i.e. the Vijay Market rather his body was seized from Alauli Primary Health Centre. It is not known how the dead body reached there. His next submission is that in this case the first post mortem report was not supporting the prosecution case but later on a medical team was constituted who conducted a second post mortem but even the kind of injury noticed in the post mortem report does not support the prosecution case. The third submission of learned counsel for the petitioner is that in this case the very manner of occurrence as disclosed by the prosecution is doubtful, there is no independent witness from Vijay Market as neither any shopkeeper nor any other independent witness has come to support the allegation and though it is alleged that three witnesses who were there on the



spot i.e. the father-in-law, Dewar and this informant and they claimed that the deceased was in fact pulled down and stretched on the earth and was taken away for about 100 meters but there is no external injury on his body. The father-in-law of the informant has got criminal antecedent, the Dewar has also got criminal antecedent and the deceased himself was accused in at least eight cases, he belongs to a gang of antisocial elements and there is every possibility that he might have been killed by someone.

It is submitted that because of the land dispute between the Bhagina of this petitioner (sister's son) the petitioner has been made accused in this case.

Learned A.P.P. for the State as well as learned counsel for the informant has jointly opposed the prayer for regular bail of the petitioner. It is submitted that the earlier the prayer for regular bail of the petitioner has been twice rejected taking note of the case wherein this petitioner is the main assailants and it is he who had fired shot at the left temporal region of the husband of the informant due to which he has succumbed to injuries. It is submitted that from the order-sheet enclosed it will appear that the case is pending for framing of charge because some of the accused were not putting appearance before the trial court.

It is again submitted that the submissions of learned



counsel for the petitioner had been advanced given on earlier occasions but twice this court was not convinced on the merit of the case, therefore, at this stage, this court need not go into the merit of the contentions.

Having regard to the facts and circumstances of the case wherein this Court has noticed that earlier on two occasions the prayer for regular bail of the petitioner has been rejected on merit by learned coordinate Bench of this Court and that the trial has not progressed earlier because the co-accused were not putting appearance and the case is still at the stage of appearance of the accused persons, this Court, finding the gravity of the offence and the fact that the petitioner is the main assailant, is not inclined to grant him bail.

The prayer for bail is, thus, refused.

This application is dismissed. Let the trial be expedited.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

