

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.16287 of 2021**

Arising Out of PS. Case No.-114 Year-2020 Thana- KATORIYA District- Banka

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ASHOK YADAV Son of Ganesh Yadav Resident of Village - Surangi, P.s.-
Katoriya, Distt.- Banka.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha, Advocate

For the Opposite Party/s : Mr. Umesh Lal Verma,APP

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 22-09-2021 Heard learned counsel for the petitioner and Mr. Umesh
Lal Verma, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Katoriya P.S. Case No. 114 of 2020 registered for the offences punishable under Sections 147, 148, 149, 323, 326, 447, 307, 302 of the Indian Penal Code. He is in custody since 16.09.2020. The petitioner has otherwise no criminal antecedent.

As per the prosecution story, the petitioner's side were forcibly trying to put a *tanti* on the land of the informant. It is alleged that when the informant's side protested against such act of the petitioner's side, the co-accused Kailash Yadav and his five sons came there and they were forcibly trying to put the *tanti*. At this stage, it is alleged that from behind 11-12 persons including this petitioner reached there and all of them indulged in causing

assault to the informant's side. Allegedly in the hand of this petitioner there was an iron rod, he assaulted Laxman Yadav on his head and injured him, thereafter the co-accused Niraj Yadav who was lased with sword, Sandeep Yadav having farsa. All assaulted the brother of the informant, all other persons were lased with a spade, danda, tangi and sword and the allegation is that all of them assaulted the brother of the informant who was taken to hospital in injured condition where in course of treatment at RIMS he died.

Learned counsel for the petitioner submits that there are general and omnibus kind of allegations against the petitioner and other co-accused. Learned counsel submits that although it is alleged that this petitioner had assaulted by an iron rod but at the same time the informant says that all other accused who were having spade, danda and tangi had also assaulted. The post mortem report shows only one injury on the head of the deceased and all other injuries are on the different parts of the body.

The main contention of the learned counsel for the petitioner is that in course of investigation it has come that when the fighting was taking place, the deceased and the petitioner had indulged in fighting with each other and in the spur of the moment the petitioner had picked up a bamboo which was lying nearby and had allegedly assaulted the deceased on his head but there was no repetition of blow and such act may at best be taken as a culpable

homicide not amounting to murder.

On the other hand, learned APP for the State has opposed the prayer for regular bail of the petitioner. Learned APP submits that investigation has revealed that this petitioner had assaulted the deceased on his head as a result whereof the injury proved fatal and he died.

Considering the facts and circumstances of the case, the kind of materials placed before this Court as noticed above and considering the submissions of learned counsel for the petitioner recorded hereinabove, this Court is not inclined to release the petitioner on bail at this stage.

The petitioner is in custody since 16.09.2020, let the trial court proceed with the case and all endeavours be made to conclude the trial within a period of one year from the date of communication of this order.

If the trial still remains unconcluded for no reason attributable to the petitioner, he may renew his prayer for bail.

The application stands disposed of accordingly.

(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'.