

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18575 of 2021**

Arising Out of PS. Case No.-186 Year-2019 Thana- BHAWANIPUR District- Purnia

RAJO SHARMA SON OF LATE KISHUN SHARMA R/O VILLAGE-
MADHWAPUR, P.S.- BHAWANIPUR, (BAILYA O.P.), DISTRICT-
PURNEA.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Advocate

For the Opposite Party/s : Mr. Jagdhar Prasad, APP

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

3 05-10-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Jagdhar Prasad, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Bhawanipur (Baliya O.P.) P.S. Case No. 186 of 2019 registered for the offences punishable under Sections 147, 148, 149, 341 323 and 302 of the Indian Penal Code. He is in custody since 28.05.2020. The petitioner has got no criminal antecedent.

As per the prosecution story, the informant alleged that there was partition between her husband and his elder



brother and a dispute arose over cutting of a tree and informant's husband was assaulted by this petitioner and his family members and when the informant got released her husband from the clutches of the accused persons then again they dragged her husband and assaulted him brutally, as a result whereof informant's husband become unconscious and died on way to doctor.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case due to land dispute. It is further submitted that there general and omnibus allegation against the petitioner. Learned counsel submits that similarly situated co-accused has been granted bail by a learned co-ordinate Bench of this Court in Cr. Misc. No. 11876 of 2021.

Mr. Jagdhar Prasad, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner. It is his submission that the petitioner is the elder brother of the deceased and after the first quarrel again the husband of the informant was assaulted, causing four injuries to him which proved fatal.

Having regard to the facts and circumstances of the case in which this Court has noticed that this petitioner being



elder brother of the deceased had allegedly assaulted the husband of the informant twice when a dispute arose over cutting of the tree, his son and grandson also participated in the assault, the deceased suffered as many as four injuries and in paragraph '22' and '23' of the case diary the independent witnesses have stated about the active participation of this petitioner in the alleged occurrence, this Court having noticed that the postmortem discloses four injuries on the dead body allegedly caused by hard and blunt substance, is not inclined to direct the release of the petitioner on bail at this stage. The submission on behalf of the petitioner that co-accused Sanjay Sharma has been granted bail by a learned co-ordinate Bench of this Court in Cr. Misc. No. 11876 of 2021 and therefore principle of parity be applied would also fail as this Court has noticed from the order that in the said case the materials present in the case diary were not brought to the notice of the learned co-ordinate Bench by learned A.P.P. and there is no mention of such materials in the order. In view of the judgement of the Hon'ble Apex Court in the case of **Shri Mahadev Meena Vs. Raveen Rathore and Another** passed in **Cr. Appeal No. 1089 of 2021 (arising out of SLP (Criminal) No. 4072 of 2021 (Paragraph-13)** principle of parity cannot be applied in this



case.

Let the trial be expedited. All endeavours be made to conclude the trial as early as possible, preferably within a period of one year from the date of communication of this order. If the trial remains unconcluded for no reason attributable to the petitioner, he may renew his prayer for bail.

This 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'.

