

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18886 of 2021**

Arising Out of PS. Case No.-141 Year-2020 Thana- DAUDNAGAR District- Aurangabad

Devendra Kumar @ Devendra Mahto aged abut 38 years, Male, S/o Late
Ramjanam Mahto R/o village- Ahiyapur, P.S.- Haspura, District- Aurangabad
... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Yugal Kishore

For the Opposite Party/s : Md. Fahimuddin A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2. 09-07-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in Daudnagar P.S. Case No. 141 of 2020, registered for the offence under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution case, on 28.05.2020 at about 10 PM, 8-10 unidentified miscreants, armed with weapons, forcibly entered the house of informant and brutally assaulted father and mother of the informant, as a result of which, father of the informant died. The informant suspects that his co-villagers namely Rasbihari Mahto and Dabloo Mahto have committed the murder, as they had threatened the deceased in past.

Petitioner is not named in the FIR and only on suspicion, the petitioner has been made accused. The name of



petitioner has transpired on the basis of C.D.R. (call details record) of the mobile phone of the petitioner. It is further submitted that even in CCTV camera, petitioner has not been identified and there is no motive for the petitioner to commit such crime. Till date, petitioner has not been put on TIP. Similarly situated co-accused Dablu Mahto @ Mithlesh Mahto has already been granted bail by a coordinate Bench of this Court, vide order dated 19.03.2021 passed in Cr.Misc. No. 1246 of 2021. Petitioner is in custody since 30.09.2020.

Learned counsel for the State and informant have vehemently opposed the bail petition and submitted that there is specific allegation against the petitioner.

However, the law is well settled that suspicion howsoever strong cannot take the place of proof and for suspicion an under-trial cannot be kept behind the bar, even after completion of investigation.

Accordingly, let the above named petitioner be released on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Daudnagar, Aurangabad in connection with Daudnagar P.S. Case No. 141 of 2020, on the following conditions:



“(1) Petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court below and shall remain physically present, as directed by the court below, and on his absence on two consecutive dates without sufficient reason, his bail-bond shall be cancelled by the court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.”

(Prabhat Kumar Singh, J.)

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