

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31434 of 2020**

Arising Out of PS. Case No.-27 Year-2020 Thana- NAYAGAON District- Saran

RAM NATH MAHTO Son of Late Hajari Mahto R/v- Dumri Bujurg, P.S.-
Nayagaon, Distt.- Chhapra at Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Adv.

For the Opposite Party/s : Mr. R.N. Jha, APP

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

4 05-01-2021 Heard both sides.

Petitioner seeks bail in Nayagaon P.S. Case No.27 of
2020 registered under Sections 302 and 34 of the IPC.

The informant alleged that Ram Nath Mahto (petitioner) was constructing *chhajja* over the land of the informant. Manoj Mahto (husband of the informant) asked not to construct *chhajja* over his land. On such, Ram Nath Mahto ordered to kill the husband of the informant. Thereafter Ram Nath Mahto, his sons and other family members came and assaulted the husband of the informant with wood plank. The husband of the informant sustained injury and he was treated in Sonapur Hospital. On 26.02.2020 the husband of the informant felt headache and vomiting tendency, thereafter he was admitted to the hospital. During course of treatment, the husband of the



informant died.

Learned counsel for the petitioner submits that the petitioner is an order giver. He is not the assailant of the deceased. Only omnibus and general allegations are made against the accused. The husband of the informant was treated by the doctor on the same day but the doctor did not find any injury. The husband of the informant came to his house after treatment but after few days of the occurrence, he felt headache and vomiting tendency. Thereafter the husband of the informant was admitted to the hospital. It is submitted that it is not a case of Section 302 of the I.P.C. simpliciter. At best, the offence under Section 304 Part II can be made out. The occurrence took place on account of bona fide land dispute and the petitioner being an order giver is in jail since 28.02.2020.

Learned APP did not dispute these facts.

Taking into consideration the facts that the occurrence took place on account of land dispute and the petitioner is only an order giver and not the assailant of the deceased and for that the petitioner is in jail for more than ten months, the petitioner named above is directed to be released on bail on furnishing bail bond of Rs.10,000/-(rupees ten thousand) with two sureties of like amount each to the satisfaction of learned A.C.J.M. VI,



Chapra (Saran) in connection with Nayagaon P.S. Case No.27 of
2020.

(Prabhat Kumar Jha, J)

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