

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1246 of 2021

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

DABLU MAHTO @ MITHLESH MAHTO, Son of Late Bhagwan Mahto,
Resident of Village - Makhara Tola, Aayodhya Bigha, P.S.- Daudnagar, Distt.-
Aurangabad (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bachan Jee Ojha, Advocate.

For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 19-03-2021 Let the defects be removed within four weeks.

Heard the parties.

The petitioner is languishing in custody for the
offence punishable under Section 302/34 of the Indian Penal
Code and Section 27 of the Arms Act.

According to F.I.R., murder of the father of the
informant was committed by causing fire arm injury. Suspicion
is against matrimonial family members of the elder brother of
the informant who had threatened in the past to commit murder
and another area of suspicion is against the petitioner and
another co-villager for the same reason.

Learned counsel for the petitioner submits that no
motive for suspicion is alleged against the petitioner in the F.I.R.
Petitioner is in custody since 07.08.2020. Investigation of the



case is already complete. Petitioner has got no criminal antecedent and except suspicion or confessional statement of co-accused before the police while in police custody, there is no other material against the petitioner.

Learned counsel for the informant opposed the prayer for bail on the basis of material that in the CCTV footage, some other co-accused were identified and in their confessional statement name of the petitioner surfaced. Moreover, during investigation it has come that there was some dispute between the deceased and the petitioner and others and for that dispute the petitioner had threatened the deceased in the past also rather had attacked with lathi etc. Learned counsel further submits that in another matter for regular bail by co-accused Rajendra Mahto, a co-ordinate Bench has called for case diary in Cr. Misc. No. 459 of 2021 vide order dated 04.03.2021.

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. Hence, in my view, the petitioner deserves bail.

Accordingly, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20000/- (Twenty thousand) with two sureties of the like amount each to the



satisfaction of the learned Court-below where the case is pending in connection with Daudnagar P.S. Case No. 141 of 2020, with following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.

(b) The petitioner shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(c) The petitioner shall not leave the country without permission of the trial Court.

(Birendra Kumar, J)

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