

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67896 of 2021**

Arising Out of PS. Case No.-577 Year-2019 Thana- KATIHAR NAGAR District- Katihar

TAPAS KUMAR @ TAPAS KUMAR DAS S/o Upendra Das Resident of
Village/Mohalla - Teja Tola, P.S. - Katihar Sahayak, District - Katihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raghvendra Kumar Singh, Adv.
For the Opposite Party/s : Mr.Md. Matloob Rab, APP

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 15-12-2021 Heard the learned counsel for the petitioner and the
learned APP appearing for the State.

The present petition is by way of third attempt at the behest of the petitioner for grant of regular bail in connection with Katihar Town PS case no. 577 of 2019, registered under Section 302/34 of Indian Penal Code, inasmuch the earlier two petitions filed by the petitioner had stood rejected vide order dated 03.06.2020 passed in Cr. Misc. no. 7007 of 2020 and the one dated 07.04.2021, passed in Cr. Misc. no. 9956 of 2021.

The case of the prosecution in brief is that in the night of 29.08.2019, all the accused persons including the petitioner herein had arrived at the house of the informant and taken away her son namely Rupesh Kumar and after half an hour, when the informant heard the sound of crying of her son, she reached at



the Middle School, Teha Toli and saw that the accused persons were assaulting her son and later on, the said son of the informant died during the course of treatment at Siliguri.

The learned counsel for the petitioner has submitted that the petitioner is languishing in custody since 05.09.2019, without there being any progress in the trial. The learned counsel for the petitioner has further submitted that co-accused persons have already been granted bail vide order dated 06.01.2021, passed in Cr. Misc. no. 26172 of 2020 and the one dated 22.11.2021, passed in Cr. Misc. no. 23409 of 2021.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and I find that this Court, on the earlier occasions, had considered the case of the petitioner at length and had also gone through the case diary, from which, it had transpired that the witnesses have supported the case of the prosecution as also the factum of the petitioner having participated in assaulting the son of the informant along with others and the post mortem report also shows as many as 08 injuries on the person of the deceased. As far as the orders dated 06.01.2021 and the one dated 22.11.2021, passed by the co-ordinate Benches of this Court are concerned,



it is apparent that earlier order of this Court dated 03.06.2020 was not brought to the notice of the co-ordinate Benches of this Court, resulting in anomaly having been crept in.

Considering the aforesaid facts and circumstances of the case as also taking into account the materials available on record, this Court finds that definitely, a *prima facie* case is made out against the petitioner and he is having complicity in the alleged crime apart from the fact that there is no change in circumstance so as to warrant re-consideration of the prayer of the petitioner for grant of bail, hence the present petition stands dismissed.

(Mohit Kumar Shah, J)

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