

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5860 of 2022

Arising Out of PS. Case No.-253 Year-2019 Thana- SALAKHUA District- Saharsa

BAIJNATH YADAV @ VAIJNATH YADAV S/O LATE LAXMI YADAV R/o
village- Morkahi, Ward No. 04, P.S.- Alouli, Distt.- Khagaria, at Presently
residing at Village- Bagulwa Tola, Belahi, P.S.- Salkhua (Chiraiya O.P.),
District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shekhar Kumar Singh
For the Opposite Party/s : Mr.Shailendra Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 02-03-2022 The present petition is by way of third attempt at the behest of the petitioner for grant of bail in connection with Salkhua (Chiraiya O.P.), P.S. Case No. 253 of 2019 under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act inasmuch as the prayer of the petitioner for grant of bail has stood rejected earlier vide orders dated 17.12.2020 and 1.9.2021 passed in Criminal Miscellaneous No. 28789 of 2020 and Criminal Miscellaneous No. 46241 of 2021 respectively.

The case of the prosecution in brief,



according to the informant is that his father namely Devendra Rai used to stay at his house and engage in agricultural activities, however, in the morning on 10.11.2019, the local people had informed him on his mobile that his father has been killed by gunshots having been fired on him at his residence on 09.11.2019 by unknown miscreants. It is further alleged that the informant and other persons had then gone to the place of occurrence and found that the father of the informant was lying dead.

The learned counsel for the petitioner has submitted that the petitioner is languishing in custody since 13.12.2019 and there is no progress in the trial, hence, the petitioner should be granted the privilege of bail. The learned counsel for the petitioner has also referred to the deposition of witnesses recorded by the learned trial court in the ongoing trial to submit that the witnesses, who have been examined, have turned hostile.

The learned APP for the State has submitted that there is no change in circumstance



so as to warrant reconsideration of the prayer of the petitioner for grant of bail and in fact, all the issues have already been elaborately and explicitly considered by this Court in its earlier order dated 17.12.2020, whereby and whereunder the prayer of the petitioner for grant of bail was rejected. It is also submitted that the deposition of the witnesses tendered during the course of trial cannot be considered at this stage inasmuch as the Hon'ble Apex Court in a catena of decisions has held that while considering the prayer of an accused for grant of bail, the concerned court should desist from conducting a mini trial.

Having heard the learned counsel for the parties and having perused the materials on record, this Court finds from its earlier order dated 17.12.2020, that the complicity of the petitioner in the alleged crime is writ large and moreover, there is no change in circumstance from the day the prayer of the petitioner for grant of bail was earlier rejected till date, hence, I do not find any occasion to reconsider the prayer of the



petitioner for grant of bail, thus, the present
petition stands dismissed.

(Mohit Kumar Shah, J)

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