

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5515 of 2022

Arising Out of PS. Case No.-36 Year-2021 Thana- BARARI District- Katihar

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Tetar Mandal, Son of Late Ful Chand Mandal, Resident of Village-
Khawaspur, P.S.- Ekchhari, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar Sinha, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 30-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Barari P.S. Case No. 36 of 2021 registered for the
alleged offences under Sections 302, 201 and 34 of the Indian
Penal Code.

As per prosecution case, allegation against petitioner
and other co-accused persons is that they assaulted the father of
the informant with *lathi* and *danda* and killed him. The occurrence
took place in the background of some land dispute.

The learned counsel for the petitioner submits that the
petitioner is innocent and has been falsely implicated in this case.
From the FIR, it is clear that the informant is not an eye-witness.



There is no land dispute of any kind as claimed by the informant. There is no eye-witness to the alleged occurrence and only on the basis of information supplied by the informant, this petitioner has been made accused in this case. During course of investigation, the statement of the witnesses have been recorded, who also disclosed that they came to know about the occurrence from the villagers and labourers. Learned counsel further submits that the post-mortem report shows cause of death as asphyxia due to strangulation but there is no allegation in the FIR about the father of the informant being strangled. Learned counsel further submits that it appears the deceased was 80 years old and at the time of taking bath in the river, he might have slipped and received some injuries and died due to asphyxia. Similarly placed co-accused Surji Mandal has been granted bail by a Co-ordinate Bench of this Court vide order dated 06.05.2022 passed in Cr. Misc. No. 54837 of 2021. The petitioner is in custody since 27.02.2021 and the charge-sheet has been submitted in this case.

Learned APP opposes the prayer for bail submitting that the name of the petitioner was disclosed by the witnesses who were examined during investigation and they told about the involvement of the petitioner in the present case.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact



that there appears hardly any substantive material on record to connect the petitioner with the offence as alleged and further considering the grant of bail to similarly placed co-accused person and also considering the period of custody of the petitioner along with submission of charge-sheet against him, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Barari P.S. Case No. 36 of 2021 subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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