

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5539 of 2022

Arising Out of PS. Case No.-186 Year-2020 Thana- MOKAMAH District- Patna

Rajiv Yadav, Son Of Mr. Ram Bharos Yadav, Resident Of Village- Kanhaipur,
P.S.- Mokama, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the State	:	Mr. Kalyan Shankar, APP
For the informant	:	Mr. Prem Chandra Yadav, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 15-11-2022 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 Mokama P.S. Case No. 186 of 2020 registered
for the alleged offences under Sections 147, 148, 149, 323, 324,
325, 302, 34 of the Indian Penal Code and Section 27 of the
Arms Act.

As per prosecution case, the petitioner and other co-
accused persons attacked the house of the informant and
assaulted the elder brother of husband of the informant with
Lathi, Danda and *Bhala*. He died on the spot. When the younger



brother of the husband of the informant tried to save him, he was also assaulted by the petitioner and other co-accused persons. The allegation against the petitioner is that he gave *Bhala* blow to the deceased.

The learned counsel for the petitioner submits that the present case is fall out of Mokama P.S. Case No. 185 of 2020, in which the nephew of this petitioner was shot dead by the informant side. Learned counsel for the petitioner further submits that the falsity of the allegation is apparent from the postmortem report, which shows no *Bhala* injury and the death has been stated to be caused by haemorrhage due to multiple injuries as mentioned in the postmortem report and its complications. The injuries are fracture of left wrist joint, left mandible, abrasion of right arm and lacerated wound on left leg. The learned counsel further submits that the falsity is more evident from the fact that on 13.09.2020 at 16:05 hours the police received information about firing being resorted to in the village and when the police party reached at the place of occurrence, the accused persons started fleeing away and the police on chase and on search found the dead body of son of co-accused Mahesh Yadav and also found the deceased of this case in badly injured condition near his house while the



deceased was being taken to the hospital and he died on the way, but the F.I.R. was registered after 24 hours and as the police was present at the place of occurrence why the F.I.R. was not registered immediately and the fact brought to the notice of police? Learned counsel further submits that cases of the co-accused persons who have been declined the privilege of bail stand on different footing than this petitioner as they allegedly assaulted the petitioner with *Lathi* and *Danda* and fatal injuries were found on the head of the deceased attributable to the blow by the co-accused persons. But no such allegation is against the petitioner and the *Bhala* injury did not cause the death of the deceased. The petitioner is in custody since 12.03.2021 and charge-sheet has been submitted in this case.

Learned APP as well as learned counsel for the informant vehemently oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that there is specific allegation against this petitioner that he gave *Bhala* blow to the deceased. The co-accused persons, namely, Shyam yadav and Shakar Yadav have been refused bail vide order dated 21.04.20-22 passed by a Co-ordinate Bench of this Court in Criminal Misc. No. 21043 of 2021. Another co-accused person, namely, Mahesh Yadav has also been declined bail vide



order dated 04.08.2022 passed by another Co-ordinate Bench of this Court in Criminal Misc. No. 45907 of 2021. Learned counsel further submits that the petitioner is having criminal antecedent and is accused in a number of cases.

Perused the record.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the postmortem report of the deceased which shows intracranial haemorrhage in the internal examination and death was stated to be caused by the injuries mentioned in the postmortem report which appears to have resulted for blows of *Lathi* and *Danda* not attributable to this petitioner and absence of *Bhala* injury being attributed to the petitioner and further considering the period of the custody and submission of charge-sheet, 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 Additional Chief Judicial Magistrate-II, Barh in connection with Mokama P.S. Case No.186 of 2020, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be 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)

Ashish/-

U			
---	--	--	--

