

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.19339 of 2021**

Arising Out of PS. Case No.-106 Year-2020 Thana- DHURAIYA District- Banka

AWDHESH YADAV Son of Suresh Yadav Resident of Village-Bara Tikar,  
P.S.-Dhoraiya, District-Banka.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Vibhakar Kumar, Advocate

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur, APP

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH  
ORAL ORDER**

2      15-02-2022                      Due to the third wave of COVID-19 Pandemic, the  
matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For  
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and learned  
APP for the State through virtual mode.

Learned Counsel for the petitioner is directed to  
remove the defect(s), as pointed out by the office, within a  
period of four weeks after restoration of normalcy.

The petitioner is apprehending his arrest in connection  
with Dhoraiya P.S. case No.106/2020 registered under Sections  
302 and 34 of the Indian Penal Code.

Allegation is that on 30.03.2020, the accused persons  
including the petitioner assaulted the father of the informant,



namely, Ramsroop Singh by means of lathi on his stomach and they also assaulted him with bricks, due to which he sustained injuries and the father of the informant was taken to the Sadar Hospital, Banka and thereafter he was referred to Sadar Hospital, Bhagalpur for better treatment, but due to scarcity of money the informant could not brought his father to Sadar Hospital, Bhagalpur. According to the doctor advice, the medicine was given to informant's father but on 12.05.2020 he died.

It has been submitted on behalf of the petitioner that there is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. On 30.03.2020, the occurrence had taken place. Relating to the said occurrence, a case and counter case were instituted between the parties for offences under Section 307 and other allied Sections of the I.P.C. Subsequently the victim of the said case was under treatment and later on, on 12.05.2020 he is said to have died. After his death, the present case has been instituted for offence under Section 302 of I.P.C. It has further been submitted on behalf of the petitioner that the deceased had not died due to primary hemorrhage, rather he died due to secondary hemorrhage. As per the medical jurisprudence, the



death due to primary hemorrhage is to take place within a period of seven days of injury caused to a person. Here, the death had taken place approximately after one and half months of the alleged occurrence. Hence, no offence under Section 302 of I.P.C. is attracted in the present case.

On behalf of the State, it is submitted that the petitioner is named in the complaint case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the facts and circumstances, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Dhoraiya P.S. case No.106/2020, subject to the conditions as laid down under Section 438(2) of the Code of



Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

**(Sudhir Singh, J)**

Narendra/-

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