

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12683 of 2022

Arising Out of PS. Case No.-306 Year-2020 Thana- BALIYA District- Begusarai

Subham Kumar @ Shuvam Kumar, Son of Bir Bahadur Singh Resident of
Village - Gokhlenagar, Bishnupur (Bishanpur), P.S. Ballia, District -
Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam

For the Opposite Party/s : Mr. Sunil Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

6 21-09-2022 Heard learned counsel for the petitioner and

learned APP for the State.

The petitioner seeks bail in Sessions Trial No. 488
of 2021 in connection with Ballia P.S. Case No. 306 of
2020, dated 19.11.2020, registered for the offence
punishable under Sections 302, 326, 341 and 120(B) of the
Indian Penal Code.

As per the prosecution case, emerging from the
F.I.R., the victim/deceased Tuntun Singh was badly
assaulted by his brother Bir Bahadur Singh and his son
Subham Kumar @ Shuvam Kumar, accused-petitioner. As
per the allegation, the accused-Bir Bahadur Singh had taken



the victim in his hold and his son accused-petitioner Subham Kumar had assaulted him by axe (*tangari*) and in course of treatment, the victim died at P.M.C.H.

The learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case only on account of land dispute between the parties. He further submits that the F.I.R. has been lodged only after the death of the alleged victim i.e. on 31.10.2020, whereas the alleged occurrence of assault had occurred on 26.10.2021. He further submits that though the informant has claimed to be an eye-witness to the alleged offence, in fact, she was not an eye-witness. He further submits that other two witnesses, who have been examined in the case-diary as direct witnesses are also not direct witnesses. Learned counsel for the petitioner further submits that most of the witnesses are hearsay witnesses and even the witnesses who have claimed to be eye-witnesses are not so. He further submits that the petitioner has been languishing in jail since 14.03.2021. He also submits that trial has already started and even charge has been framed.



It is also stated in paragraph no. 2 of the petition that the petitioner has not moved earlier before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the petitioner has no criminal antecedent.

However, the learned APP for the State opposes the prayer of the petitioner for bail submitting that the alleged offence is serious in nature and there is sufficient material in the case-diary to support the alleged offence against both the accused including the present petitioner. Even post-mortem report is supportive of the alleged offence as per which the victim has died of shock and haemorrhage resulting from ante-mortem injuries on the body of the deceased caused by hard and blunt substance.

Considering the aforesaid facts and circumstances, particularly the nature of evidence and material collected in support of the allegation, I am not persuaded to enlarge the petitioner on bail.

The prayer for bail is accordingly rejected.

However, the Trial Court is directed to expedite



the trial. In case, the trial is not concluded within one year,
the petitioner is at liberty to renew his prayer for bail.

The learned counsel for the petitioner is directed to
remove all the defects, if any, pointed out by the office
within a period of one month and the Registry is directed to
issue the certified copy of this order only after removal of
office objections.

(Jitendra Kumar, J)

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