

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29333 of 2021

Arising Out of PS. Case No.-141 Year-2020 Thana- DAUDNAGAR District- Aurangabad

RAS BIHARI MAHTO S/o Late Bhagwan Mahto R/o village- Makhara Tola,
Aayodhya Bigha, P.S.- Daudnagar, District- Aurangabad (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Satyendra Narayan Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 18-02-2022 Heard the parties through video conferencing.

Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect(s) be removed within two weeks of
the complete start of the physical Court in normal course.

The petitioner, who is in custody since 08.11.2020,
seeks regular bail in connection with Daudnagar P.S. Case No.
141 of 2020, for the offence punishable under Section 302/34 of
the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case, in brief, is that on
28.05.2020 at about 10.00 P.M., 8-10 unidentified miscreants,
armed with weapons forcibly entered the house of informant
and brutally assaulted father and mother of the informant, as a
result of which, father of the informant died. The informant
suspects that his co-villagers namely, Rasbihari Mahto



(Petitioner) and Dabloo Mahto have committed the murder, as they had threatened the deceased in past.

Learned counsel appearing on behalf of the petitioner submits that petitioner has falsely been implicated in this case only on suspicion. He further submits that the investigation of the case is already complete, the petitioner has got no criminal antecedent, except suspicion or confessional statement of co-accused before the Police, there is no other material against the petitioner. He further submits that similarly situated co-accused Dablu Mahto @ Mithlesh Mahto, who is own brother of the petitioner, has already been released on bail vide order dated 19.03.2021 passed in Criminal Miscellaneous No. 1246 of 2021 and as such the petitioner be released on bail.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner.

Considering the above mentioned facts and circumstances of the case, the petitioner has been made accused in the present case on the basis of suspicion, the law is well settled in this regard that a strong suspicion, howsoever, cannot take the place of proof and for suspicion an under-trial cannot be kept behind the bar, even after completion of investigation. In the present case, there is no eye-witness of the above incident,



the informant is son of the deceased and has made allegation that he has seen the accused persons after committing the murder and fleeing away from the house, even from the C.C. TV footage, the petitioner has not been identified and there is no element / evidence attribute motive of the petitioner to commit such heinous crime, similarly situated co-accused Dablu Mahto @ Mitlesh Mahto has already been enlarged on bail by a co-ordinate Bench of this Court, the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M, Aurangabad in connection with Daudnagar P.S. Case No. 141 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature



of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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