

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22012 of 2022

Arising Out of PS. Case No.-135 Year-2020 Thana- GAMAHARIYA District- Madhepura

NISTU KUMAR @ BOUA Son of Anil Yadav Resident of Village Pokhran
Ward No. 3, P.S. - Murliganj, District - Madhepura.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate
For the Opposite Party/s : Mr. Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 21-12-2022 Heard learned senior counsel for the petitioner and
learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with S. Tr. No. 230/2021 arising out of Gamahariya P.S. Case No. 135/2020 registered for the offences punishable under Section 302/34 of the Indian Penal Code. He is in custody since 24.08.2020 having no criminal antecedent as stated in paragraph '3' of the application.

As per the prosecution story, the informant alleged that his father had gone to see the fair on 11.08.2020, in course of returning, he stayed at beetle shop of Shankar Chaudhary, in the meantime, some unknown miscreants fired on his father as a result of which his father fell down and on hearing the alarm of the villagers, the miscreants fled away taking the benefits of the darkness. Thereafter his father was taken to hospital but he died



on the way.

Learned senior Counsel for the petitioner submits that petitioner has been falsely implicated in this case. The F.I.R. has been lodged against unknown. Learned senior counsel submits that the co-accused Raja Raj @ Raja Kumar who is said to be one of the assailants has been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 15198/2021, however petitioner is in custody since 24.08.2020.

Having regard to the facts and circumstances of the case wherein this Court has been informed that the co-accused Raja Raj @ Raja Kumar who is said to be one of the assailants has been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 15198/2021 and learned A.P.P. for the State is unable to controvert the submission of learned senior counsel that so far as this petitioner is concerned, his name was also not mentioned in the F.I.R. and there is no eye witness and the case of the petitioner at best stands on similar footing as that of Raja Raj @ Raja Kumar, the petitioner has remained in custody since 24.08.2020 and till date only four witnesses have been examined out of 13 prosecution witnesses, therefore, this Court directs release of the petitioner above-named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five



Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge – VII, Madhepura in connection with S. Tr. No. 230/2021 arising out of Gamahariya P.S. Case No. 135 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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