

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33829 of 2021**

Arising Out of PS. Case No.-130 Year-2020 Thana- FATEHPUR District- Gaya

Arjun Prasad, Son of Shri Aditya Mahto, Resident of Village- Dhibar Tola
Adarkichak, P.S. - Fatehpur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s : Mr. Md. Shakir Ahmad, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER**

7 11-07-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Fatehpur P.S. Case No.130 of 2020 registered
for the offences punishable under Sections 147, 148, 149, 341,
323, 324, 325, 326, 307, 302, 120B of the Indian Penal Code.

As per prosecution case, it is alleged that altogether
17 named accused persons, including this petitioner, had
assaulted the informant's cousin and other family members, due
to which the cousin of the informant died. It is also alleged that
the dispute is based on filling of a well of which the entire



villagers are claimed to be the beneficiaries.

It is submitted by the learned counsel appearing on behalf of the petitioner that there is general and omnibus nature of allegations against all the accused persons. However, the prosecution case does not corroborate by the post-mortem report, which clearly suggests that the deceased had received only one injury over his head, which resulted into his death. It is next submitted that admittedly there is land dispute between the parties and there is counter version of the present case, being Fatehpur P.S. Case No. 131 of 2020, the copy of which has been brought on record by way of Annexure-2 to this application. It is next submitted that in fact on account of filling of well, a free fight has taken place between both the parties and the persons of the informant's side and the accused persons have also sustained serious injuries. It is next submitted that the other accused persons, having identical allegation, have been granted bail by different co-ordinate Benches of this Court in Cr. Misc. No. 13472 of 2021 vide order dated 04.10.2021, Cr. Misc. No. 37204 of 2021 vide order dated 21.09.2021 and Cr. Misc. No. 11155 of 2021 vide order dated 26.07.2021, the copies of which have been brought on record by filing supplementary affidavit. It is lastly submitted that the petitioner is in custody since



25.01.2021 and moreover, the investigation of the crime is already completed and the charge-sheet has been submitted.

On the other hand learned APP for the State vehemently opposes the bail application and submits that there is specific allegation that all the accused persons including this petitioner in furtherance of common intention caused the death of the cousin of the informant. However, he fairly submits that during the course of investigation in para. 8 of the case diary it has come that co-accused Shivam Kumar assaulted the deceased over his head, which resulted into his death.

Having considered the submissions made on behalf of the parties and taking into consideration the general and omnibus nature of allegation, apart from the fact that other co-accused persons, having identical allegations, have already been granted bail by different co-ordinate Benches of this Court and moreover this petitioner is in custody since 25.01.2021 though the investigation of the crime is already completed, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned 4th Additional Chief Judicial Magistrate-X, Gaya in connection with Fatehpur P.S. Case No. 130 of 2020, subject to the



condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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