

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28196 of 2022

Arising Out of PS. Case No.-191 Year-2021 Thana- LODIPUR District- Bhagalpur

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Gautam Das @ Gautm Das, Son of Kirtu Das, Resident of Village- Lodipur,
P.S.- Lodipur, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Indeshwari Prasad Mandal, Advocate
For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 12-10-2022 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 Mr. Indeshwari Prasad Mandal, learned counsel
for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Lodipur P.S. Case No. 191 of 2021 registered
for the offences punishable under Sections 147, 341, 323, 324,
307 and 302 of the Indian Penal Code.

As per prosecution case, it is alleged that on
23.09.2021, at about 8.30 PM, the petitioner and others came to
the house of the informant and taken away his son and thereafter
all the accused persons, including the petitioner, brutally
assaulted him by Gupti and Hansua, as a result of which the
informant's son died during the course of treatment. The reason



behind the said occurrence is a dispute of fetching of water from Handpump.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that no specific allegation has been attributed against anyone, rather a general and omnibus allegation has been levelled against ten accused persons. He further submits that during the course of investigation only one stab injury has been found over the body of the deceased, which also demolishes the entire prosecution case that all the accused persons have brutally assaulted the deceased. He has also drawn the attention of this Court towards the prosecution case and submits that in fact the informant is not an eye witness to the alleged occurrence. Furthermore, the petitioner, having fair antecedent, is in custody since 01.02.2022. He lastly submits that now the charge-sheet has been submitted and there is no allegation of tampering with the evidence and intimidating the witnesses.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the deceased was brutally assaulted by all the accused persons, leading to his death.

Regard being had to the submissions made on behalf of the parties and considering the general and omnibus nature of



allegation against all the accused persons, as also the post-mortem report, which does not corroborate the prosecution case, apart from the petitioner, having fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IX, Bhagalpur in connection with Lodipur P.S. Case No. 191 of 2021, 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 physically 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.

(Harish Kumar, J)

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