

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40304 of 2021**

Arising Out of PS. Case No.-512 Year-2020 Thana- MADHEPURA District- Madhepura

SURENDRA YADAV Son of Late Bindeshwari Yadav Resident of Village-
Bhadaul, Ward No.5, P.S.- Madhepura (Bharrahi O.P.), District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Durgesh Kumar, Adv.
For the Opposite Party/s	:	Mr.Dr. Indivar Kumari, APP
For the informant	:	Mr. Surya Narayan Yadav, Adv.

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 03-01-2022 Heard the learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks regular bail in connection with Madhepura PS case no. 512 of 2020 instituted for the offences punishable under Sections 307 and other allied sections of Indian Penal Code.

As per the prosecution case, during road construction work being done by Panchayat Samiti, scuffle took place between the parties. It is alleged that all the FIR named accused persons including the petitioner herein, variously armed, along with 8-10 unknown persons assaulted the uncle of the informant, as a result of which, he fell down on the ground. Thereafter, the co-accused person namely Wakil Yadav is



alleged to have pressed the neck of the uncle of the informant, resulting in his death.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case due to village politics. From bare perusal of FIR, it would be apparent that specific allegation of pressing the neck of deceased is against co-accused Wakil Yadav. No specific overt act is alleged against this petitioner. From perusal of postmortem report, it appears that the deceased died due to Asphyxia caused by hard and blunt substance and no external injury has been found on the person of deceased. The learned counsel for the petitioner has further submitted that similarly situated co-accused persons have already been granted bail by co-ordinate Benches of this Court vide order dated 02.03.2021 passed in Cr. Misc. no. 40318 of 2020, order dated 16.07.2021 passed in Cr. Misc. no. 7318 of 2021 and order dated 05.10.2021, passed in Cr. Misc. no. 39628 of 2021. Moreover, the petitioner is stated to be languishing in custody since 15.02.2021, having a clean antecedent.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the



case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record, this Court finds that specific allegation of pressing the neck of the deceased is against the co-accused namely Wakil Yadav and as far as the petitioner is concerned, he is not alleged to have engaged in any sort of overt act and moreover, the post mortem report shows that the deceased died due to asphyxia on account of injury caused by hard and blunt substance. Moreover, considering the parity of the case of the petitioner with that of the co-accused persons, who have already been granted bail by co-ordinate Benches of this Court, I deem it fit & proper to admit the petitioner to the privilege of bail. Accordingly, the abovenamed petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned court of C.J.M., Madhepura in connection with Madhepura PS case no. 512 of 2020.

(Mohit Kumar Shah, J)

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