

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41391 of 2021

Arising Out of PS. Case No.-38 Year-2020 Thana- ANTICHAK District- Bhagalpur

SANJAY PAHARIA Son of Late Bale Paharia @ Late Bale Pahadiya
Resident of Village- Ram Janipur Paharia Tola, P.S.- Antichak, District-
Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr. Manoj Kumar, Advocate

For the Opposite Party/s : Mr. Jai Narain Thakur, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 02-03-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

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

Petitioner, who is in custody since 16.01.2021, seeks
regular bail in connection with Antichak P.S. Case No. 38 of
2020 registered for offences punishable under Sections 448,
323, 324, 302 and 307/34 of the Indian Penal Code.

Prosecution case, in brief, is that informant namely,
Janaiya Devi was married to one Sunil Paharia and about three
months ago her husband left her and thereafter she was living
with her two girl child at her Maika. In the night of 24.11.2020,
her husband Sunil Paharia alongwith Sanjay Paharia (petitioner)



, Karu Paharia brutally assaulted her grand-mother Badri Devi and murdered her and thereafter, at about 12:00-1:00 a.m., all three accused persons came to her house while she was sleeping and all assaulted her also with fists and slaps. It is alleged that Sunil Paharia assaulted with an axe on her face due to which she had sustained cut wound on her cheek and she had become unconscious and was taken to hospital for treatment.

Learned counsel appearing on behalf of the petitioner submits that allegation of any assault against concerned Sunil Paharia who is the husband of the informant Jania Devi with whom he has no concern. There is no eye witness to the alleged murder of her grand-mother Badri Devi which had taken place at her own house. There is no allegation that the present petitioner had assaulted the informant. It is specific case of the petitioner that there is no eye witness of the occurrence and there is specific allegation of overt act against Sunil Paharia. Petitioner is in custody since 16.01.2021.

Learned A.P.P., for the State has opposed the prayer for grant of bail to the petitioner. He submits that petitioner is named in the F.I.R. though there is no allegation of assault against him but it cannot be denied that he had not participated in the murder of the grand-mother of the informant and as such



the petitioner does not deserve to be released on bail.

Having heard the rival submissions of the parties as well as the allegation made in the F.I.R. it appears that no overt act has been alleged against the petitioner and there is no eye witness to the murder of the grand-mother of the informant. Specific allegation of assault is against Sunil Paharia who is her husband who had assaulted her with axe on her face. No material evidence has come in course of investigation to connect the petitioner in alleged murder of the grand-mother of the informant. Prima facie the petitioner has made out a case to be released on bail. The Court below is directed to release the petitioner above named on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Bhagalpur in connection with Antichak P.S. Case No. 38 of 2020 subject to the following conditions:

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

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

(iii) 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.

(iv) 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 bond.

(Purnendu Singh, J)

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