

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46711 of 2021

Arising Out of PS. Case No.-200 Year-2021 Thana- BANKA District- Banka

Shambhu Rajak @ Shambhu Baitha Son Of Mohan Rajak @ Mohan Baitha
Resident Of Village- Mohanpur, P.S.- Barahat, District- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar, Advocate

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 22-06-2022 Let the defects, if any, be removed within four weeks
from today.

Heard Mr. Alok Kumar, learned counsel for the
petitioner as well as learned Additional Public Prosecutor for the
State.

The petitioner seeks bail in connection with Banka
(Barahat) P.S.Case No. 200 of 2021 registered for the offences
punishable under Sections 147,149,302 of the Indian Penal
Code and Section 7(c) of the Protection From Lynching Act
2017.

As per prosecution case, it is alleged that on
18.03.2021 at about 5 pm the husband of the informant went to
his field whereupon , he was caught hold by the petitioner and
taken to chabutra, where co-accused persons including this



petitioner assaulted her husband with lathi, danda and rod. It is further alleged that when the informant started screaming co-accused persons also tried to assault her, however she fled away and saved her life. It is also alleged that her husband was referred to Sadar Hospital but he succumbed to the injuries, on the way .

It is submitted by the learned counsel for the petitioner that there is general and omnibus allegation against all the accused persons, including the petitioner that they have brutally assaulted the husband of the informant. So far this petitioner is concerned, in fact, it is he, who had taken the deceased to the hospital for his treatment but unfortunately, he died on the way. It is also submitted that no specific allegation of overt act has been attributed against him. It is next submitted that during the course of investigation, it has come that deceased had criminal antecedent and he was done to death by mob . It is lastly submitted that this petitioner has clean antecedent and is in custody since 20.3. 2021, though, the investigation has already been concluded and charge sheet has been submitted and he is ready to give undertaking that he shall remain present on each and every date.

On the other hand, learned APP for the State opposes



the bail application of the petitioner and submits that there is specific allegation that the petitioner along with other named accused persons assaulted the husband of the informant due to which he died.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that there is general and omnibus allegation against all, apart from the fact, that investigation has already been concluded and charge sheet has been submitted and he is in custody since 20.03.2021, having fair antecedent, let the petitioner above named, be released on bail, in the event of his arrest or surrender before the court below within eight weeks from today, on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Banka (Barahat) P.S.Case No. 200 of 2021 subject to the conditions as laid down under Section 438(2) of the code of Criminal Procedure with the following conditions:-

(I) One of the bailors should be the close relative of the petitioner.

(ii) The petitioner will cooperate in the investigation as well as in conclusion of the trial.



(iii) He will not try to tamper with the evidence or intimidate the witnesses in course of investigation or during the course of trial.

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

(Harish Kumar, J)

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