

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48113 of 2021

Arising Out of PS. Case No.-15 Year-2020 Thana- NIMCHAKBATHANI District- Gaya

VIJAY KUMAR SINHA @ KIRANIJI @ VIJAY KUMAR Son of Late Ram
Sharan Singh Resident of Village - Horidih, P.S.- Nimchak Bathani, District -
Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Soni Srivastava, Adv.
For the Opposite Party/s	:	Mr. Tarun Prasad Mandal
For the Informant	:	Mr. Rajendra Narayan, Sr. Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 25-05-2022 Heard Ms. Soni Srivastava, the learned counsel for
the petitioner and Mr. Rajendra Narayan, the learned senior
counsel for the informant. The State is represented by the
learned APP .

The petitioner, who is in custody since 06.08.2020
seeks bail in connection with Nimchak Bathani P.S. Case No.
15 of 2020 instituted for the offences under Sections 147, 148,
149, 447, 323, 354(A), 506 and 504 of the Indian Penal Code
and Section 27 of the Arms Act. Later on, Section 302 of the
Indian Penal Code.

According to the First Information Report, petitioner
and seven others are said to have taken part in the assault which
ultimately led to the death of the deceased. During the course of



investigation, the uncle of the deceased has also lodged a *fardbeyan* which has become part of the record of the subject F.I.R., in which he has narrated another story in which the act of assault on the deceased has been attributed to somebody else in a different transaction.

The statement of the uncle of the deceased discloses that the subject F.I.R. is motivated and only for the purposes of shielding the real culprits.

Be that as it may, considering the general and omnibus allegation against two of the other accused persons whose cases stand on exactly similar footing, two Benches of this Court have granted bail to them vide orders dated 22.11.2021 and 24.02.2022 passed in Cr. Misc. No. 16602 of 2021 and Cr. Misc. No. 21600 of 2021, respectively.

While opposing the grant of bail to the petitioner, Mr. Narayan, the learned senior Advocate has contended that after the two orders in the aforesaid applications with respect to other co-accused persons was passed by different Benches of this Court, the trial commenced and now two witnesses have already been examined out of five whereas two out of them are only official witnesses. Thus, for all practical purposes, it can safely be predicted that the trial could be completed in near



future. In that event, there would be no necessity of directing for release of the petitioner, who has been named in the F.I.R. as one of the participants in the occurrence. He has further submitted that the declaration of the petitioner regarding his criminal antecedents is too vague to be accepted. According to his information, in one of the cases in which the petitioner was made accused earlier, the case is of the year 1991 and he has been declared an absconder in that case.

Ms. Srivastava, learned Advocate for the petitioner in response to the aforesaid objection has submitted that such information is fallacious as once the petitioner was in custody for more than one and half years, there was no reason for continuing with the declaration that the petitioner is an absconder in another case even though it was registered in the year 1991.

Be that as it may, regard being had to the afore-noted facts and specially taking into account the period of custody of the petitioner, which is from 06.08.2020 and the trial not having been concluded upto now, the petitioner is directed to 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 -X, Gaya, in connection with Nimchak Bathani P.S.
Case No. 15 of 2020.

However, it is cautioned that if the petitioner does not participate in the trial proceedings on two consecutive occasions without taking the leave of the Trial Court, it shall be open for the Trial Court or the informant to move necessary application before the court below for cancellation of bail granted to the petitioner and in that event, the Trial Court shall promptly proceed in that direction.

With the afore-noted direction and observation, the petition stands disposed of.

(Ashutosh Kumar, J)

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