

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47724 of 2021**

Arising Out of PS. Case No.-175 Year-2020 Thana- MAJORGANJ District- Sitamarhi

NAGESHWAR MAHTO S/O LATE BATAHU MAHTO R/o village- Laldasi,
P.S.- Majorganj, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Udbhav, Adv.

For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

7 18-07-2022 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

A supplementary affidavit, carrying out necessary correction in the main application, has been filed on behalf of the petitioner, which forms part of this application.

The petitioner seeks bail in a case registered for the offence under Sections 341, 323, 302, 354, 504 and 34 of the Indian Penal Code.

The husband of the informant is said to have been assaulted by the petitioner and others by means of deadly weapon like iron rod, lathi, danda etc. as a result of which he sustained severe injuries and died during course of treatment.



Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that according to the F.I.R., the allegation against the petitioner is that he along with the other co-accused took the deceased inside the bamboo hut (Jaffri) and handed over to the other co-accused and they have assaulted him. He further submits that the allegation levelled in the F.I.R. against the petitioner does not get support by the medical report. He further submits that similarly situated co-accused, namely, Vindeshwar Mahto along with Maehshwar Mahto have already been granted bail by a co-ordinate Bench of this Court vide order dated 07.02.2022 passed in Cr. Misc. No. 25930 of 2021. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 24.02.2021.

On the other hand, learned counsel for the informant as well as learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the prayer for bail of similarly situated co-accused, namely Ajay Kumar has been rejected vide order 23.02.2022 passed in Cr. Misc. No. 44928 of 2021 by a co-ordinate Bench of this



Court. He further submits that the petitioner carries one more case other than the present one.

Learned counsel for the petitioner in reply to the submission of learned counsel for the informant and the State has stated that the allegation of co-accused, Ajay Kumar, is entirely different from this petitioner, therefore, the case of this petitioner is not identical to the that of the co-accused, whose prayer for bail has been refused by a co-ordinate Bench of this Court.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Majorganj P.S. Case No. 175 of 2020 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.



(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

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

(Rajesh Kumar Verma, J)

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