

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41324 of 2022

Arising Out of PS. Case No.-121 Year-2019 Thana- RAFIGANJ District- Aurangabad

Mithilesh Sao @ Mithilesh Kumar @ Mithlesh Saw, S/o Naresh Sao,
Resident of Village - Shailopur, P.S.- Rafiganj, District - Aurangabad (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Saket Kumar Singh, Advocate
For the State	:	Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 16-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Rafiganj P.S. Case No. 121 of 2019 registered
for the alleged offences under Sections 307, 447, 341, 323, 324,
504, 302 and 34 of the Indian Penal Code

As per prosecution case, the petitioner and other co-
accused persons picked quarrel with the family members of the
informant and when the informant intervened, he was assaulted
by them. When the brother and the grandfather of the informant
tried to save him, this petitioner assaulted the grandfather of the



informant with *tangi* causing grievous injuries to him. The grandfather of the informant was referred for treatment to Magadh Medical College and he died while undergoing treatment.

The learned senior counsel appearing on behalf of the petitioner submits that the prayer for bail by the petitioner was rejected twice by different Coordinate Benches vide order dated 03.03.2020 passed in Cr. Misc. No. 61379 of 2019 and order dated 20.02.2021 passed in Cr. Misc. No. 32947 of 2020, respectively. Learned senior counsel further submits that though the allegation against the petitioner is that of causing *tangi* blow but no sharp cut injury has been found of the person or the deceased and the death occurred due to head injury and nature of violence is stated to be caused by hard and blunt object. Learned senior counsel further submits that till date hardly any progress has taken place in the trial and the same is not likely to be concluded in near future. Learned senior counsel further submits that the FIR also shows the petitioner and informant side are neighbours and the occurrence took place in the heat of moment. The petitioner is in custody since 19.06.2019 and charge sheet has already been submitted.

Learned APP opposes the submission made on behalf



of the petitioner. Learned APP further submits that the prayer for bail of the petitioner was twice rejected and there is specific allegation him of assaulting the grandfather of the informant which was supported by the witnesses examined during investigation by the police as mentioned in the paragraphs 14, 16 and 17 of the case diary.

Perused the records.

A report dated 21.10.2022 has been received from the court of learned Additional District and Sessions Judge-X, Aurangabad, Bihar wherein he has submitted that out of five charge sheet witnesses only three witnesses have been examined and steps have been taken for examination of other witnesses of the prosecution. The learned trial court has also submitted that it may take further time of 6 months to conclude the trial in this case.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that trial may not conclude in near future as it appears from the report of the learned trial court and further considering the period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount



each to the satisfaction of learned Additional Sessions Judge-
X/court concerned, Aurangabad in connection with Rafiganj P.S.
Case No. 121 of 2019, subject to the conditions mentioned in
Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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