

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41343 of 2022

Arising Out of PS. Case No.-36 Year-1998 Thana- BIHPUR District- Bhagalpur

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Biso Yadav @ Vishundev Yadav Son of - Late Dashrath yadav Resident of
Village - Sahori, P.S.- Bihpur, District – Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Yadav, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 16-11-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner and learned

APP for the State.

Petitioner seeks regular bail in connection with Bihpur

P.S. Case No. 36 of 1998 registered for the offences punishable

under Sections 147, 148, 149, 447, 448, 427, 380, 323, 325, 307

and 302 of the Indian Penal Code.

As per the prosecution, the informant in her fardbayan

has alleged that twelve persons barged into her house when she

and her cousin sister were in the Angan and just before this

incident her elder brother (Nagina Yadav) had come to the house

and upon seeing the miscreants he locked himself inside the

house. The informant and her cousin sister had identified some of the miscreants. Further it is alleged that co-accused Bauka Chaudhary and Ranja Chaudhary threatened the informant's brother to open the door otherwise they would kill him, in fear of which the informant's brother opened the door and thereafter other co-accused persons looted some jewellery and other articles and the accused persons took away informant's brother near a maize field and shot him dead and when the informant went to see her brother, she found the body of the deceased lying on the ground in a pool of blood and the other accused persons also assaulted the informant's uncle.

The main submissions advanced by learned counsel Mr. Ashok Kumar Yadav appearing for the petitioner are that the petitioner is a 70 years old man having clean antecedent and as per the FIR he is stated to be a member of the unlawful assembly and any specific role or overtact on the part of the petitioner in the commission of the alleged occurrence has not been revealed in the FIR. Further submission is that the petitioner is a handicapped person and the said fact has also been mentioned by the court below in the order impugned. Further submission is that the petitioner is suffering from many diseases and he has been languishing in jail since 22.11.2021 in

the instant matter and co-accused Bauka Chaudhary who is alleged to be the main assailant is on bail granted by a Co-ordinate Bench of this Court vide order passed in Cr. Misc. No. 25065 of 2002.

Learned APP Mr. Parmanand Kumar, appearing for the State has opposed the prayer for bail.

Heard both the sides and perused the FIR and the order impugned. Though the petitioner has remained absconding for a long period of time due to which his trial for the alleged offences has not been commenced but considering the old age of the petitioner and his custody period and also the fact that he is stated to be a handicapped person and in the FIR any specific role of the petitioner in the alleged crime has not been revealed and several persons are stated to be involved in the alleged crime and the main assailant named above is on bail as per the above submissions, in the opinion of this Court the petitioner deserves to a lenient approach of this Court, let the 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 the 2nd Addl. Session Judge, Naugachia, District Bhagalpur in connection with Bihpur P.S. Case No. 36 of 1998 on 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 below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled 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.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(4) The court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner is found then the court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J.)

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