

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54436 of 2021**

Arising Out of PS. Case No.-40 Year-2021 Thana- CHHABILAPUR District- Nalanda

Sharwan Yadav Son of Sajo Yadav Resident of Village - Keshari Bigha, P.S. -
Chhabilapur, District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar No.1, Advocate.

For the Opposite Party/s : Mr. Umanath Mishra, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

4 18-05-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Anil Kumar No. 1, learned counsel for the petitioner and Mr. Umanath Mishra, learned Additional Public Prosecutor for the State.

The application for grant of regular bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Chhabilapur P. S. Case No. 40 of 2021 registered for the offences punishable under Sections 341, 323, 338, 504, 302 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution case, it is alleged that on



14.04.2021, while the son of the informant and his son-in-law going to Silao to board train after participating in *Sharadh*, all the F.I.R. named accused persons caught his son whereupon co-accused Ranjit Prasad @ Guddu Mukhiya instigated the accused persons to kill him. Thereafter, all the accused persons tied him and Chhote Yadav, Sharwan Yadav and Sajo Yadav assaulted him by *danda* and brick. After receiving the information, the informant came to the spot and took his son to Sadar Hospital, however, he died in the way.

Learned counsel appearing on behalf of the petitioner submits that there is no specific allegation against this petitioner rather general and omnibus allegation has been levelled against all the accused persons. It is further submitted that though the occurrence is said to have taken place on 14.04.2021 at about 12:00 O'clock but the F.I.R. has been instituted next day on 15.04.2021 by giving a written report. It is next submitted from that the tenor of the F.I.R., it appears that neither the informant nor his son-in-law are the eye witness to the alleged occurrence, as the informant stated, while he was taking his injured son, he disclosed the name of the accused persons. It is further submitted that during course of investigation the statement of the son-in-law, Rajesh Kumar was



also recorded, who has stated that accused persons were assaulting the deceased with bamboo stick.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that all the accused persons with the common intention assaulted the deceased, which resulted into his death.

Having considered the submissions made on behalf of the parties and taking into account the fact that omnibus allegation has been levelled against all the accused persons and the only eye witness to the occurrence, son-in-law of the informant has stated in his statement that all the accused persons assaulted the deceased with bamboo stick. Apart from the fact that this petitioner is in custody since 21.04.2021 and there is no allegation of any intimidation of witnesses and tampering with the evidences and moreover, the investigation has already been completed and the charge-sheet has been submitted, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bihar Sharif, Nalanda in connection with Chhabilapur P. S. Case No. 40 of 2021, subject to the condition that one of the bailors will be the close relative of the



petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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