

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55691 of 2021

Arising Out of PS. Case No.-276 Year-2021 Thana- KHAGARIA District- Khagaria

Madhu Chaudhari @ Saroj Kumar, Son Of Late Sadanand Chaudhari, R/o
Village- Charkhutti Rahimpur, P.S.- Mufasil, District- Khagariaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr.Pranav Kumar, Advocate
For the State	:	Mr.Narsingh Tanti, APP
For the Informant	:	Mr. Ranjeet Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 31-03-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned counsel for the informant and Mr. Narsingh Tanti, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Khagaria (Muffasil) P.S. Case No. 276 of 2021 registered for the offences punishable under Section 341, 302, 307/34 of the Indian Penal Code and 27 of the Arms Act. He is in custody since 03.04.2021. Petitioner has got four criminal antecedents but he is on bail in all the cases except one in Khagaria (M) P.S. Case No. 23 of 2020.

Learned counsel for the petitioner submits that the



petitioner and the informant are agnates. As per the prosecution story, on 28.03.2021 at about 4:00 P.M. while the petitioner was engaged in harvesting of wheat with her husband Mukesh Kumar and others namely Prakash Rai, son of Rajendra Rai, the two named accused Anil Chaudhary and Niranjana Chaudhary came together with 10-15 persons. They started pulling away her husband whereupon Prakash Rai tried to save him but the co-accused Raushan Kumar Chaudhary assaulted him by his rifle butt. It is alleged that co-accused Jitendra Chaudhary, Amit Chaudhary and Chotelal Chaudhary started indiscriminate firing from their rifle and the accompanying persons namely, Mahesh Chaudhary, Sanatan Chaudhary, Madhu Chaudhary (the petitioner) and Ranjay Chaudhary assaulted her husband by lathi, danda, iron rod and butt of the rifle. When her husband tried to flee away co-accused Niranjana Chaudhary ordered to kill him, whereupon another co-accused Anil Chaudhary ran the tractor over the husband of the informant as a result whereof he died.

Learned counsel for the petitioner submits that it is a case of false implication of the petitioner on the strength of a completely vague allegation. In the F.I.R. there is no specific allegation that this petitioner was armed with lathi, danda, iron



rod or rifle, a general and omnibus kind of allegation has been made that the co-accused Mahesh Chaudhary, Sanatan Chaudhary, this petitioner and Ranjay Chaudhary assaulted him by lathi, danda, iron rod and rifle. It is then submitted that in the post-mortem report only two injuries have been found on the body of the deceased. It is also pointed out that the thrust of the allegations are against the co-accused Anil Chaudhary who had allegedly with an intention to kill ran the tractor over the husband of the informant.

It is lastly submitted that the co-accused Jitendra Chaudhary and Amit Chaudhary against whom there were allegation of indiscriminate firing have been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 51108 of 2021.

On the other hand, learned A.P.P. for the State and learned counsel for the informant have opposed the prayer for regular bail of the petitioner. Learned counsel for the informant submits that the parties have a land dispute but there is no criminal case between the parties prior to the present occurrence. Learned counsel submits that the petitioner happened to be one of the assailants and his active participation has been alleged in the F.I.R.



Having regard to the facts and circumstances of the case wherein there is admitted land dispute between the parties, they are the agnates and from the F.I.R. it appears that several persons have been made accused but so far as this petitioner is concerned, he has been named along with co-accused Mahesh Chaudhary, Sanatan Chaudhary and Ranjay Chaudhary alleging that they had assaulted the husband of the informant by lathi, danda, iron rod and butt of the rifle, there is no specific allegation against the petitioner of having any specific weapon in his hand, the post-mortem report is suggesting two injuries only on the dead body and the apparent cause of death is running down the tractor over the body of the husband of the informant and the specific allegation of running down the tractor is against the co-accused Anil Chaudhary, the co-accused Jitendra Chaudhary and Amit Chaudhary have been granted bail by a learned coordinate Bench of this Court, therefore considering that the petitioner has remained in custody for almost one year, investigation against him is complete but the trial is not likely to be concluded in near future and his presence may be secured in course of trial and there being no submission that his release at this stage is likely to result in tampering with the evidence or interfering with the course of trial, this Court



directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Khagaria in connection with Khagaria (M) P.S. Case No. 276 of 2021, subject to the condition as laid down under Section 437 (3) Cr.P.C.

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.

(Rajeev Ranjan Prasad, J.)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

