

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69722 of 2021

Arising Out of PS. Case No.-47 Year-2021 Thana- MORKAHI District- Khagaria

RAJESH SAH S/o Late Jagdish Sah R/o village- Bachhauta, P.S.- Morkahi, District-
Khagaria

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal
For the Opposite Party/s : Mr.Rina Sinha

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 21-09-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Morkahi
P.S. Case No. 47 of 2021 registered for the offences punishable
under Sections 341, 323, 302/34 of the I.P.C.

As per prosecution case, the informant was
constructing safety (toilet). In the meantime, petitioner and others
came and objected to construct the same. Thereafter, informant left
some land and started constructing toilet. Then co-accused Vikash
alias Vikky assaulted informant's son with bricks when her
husband Bavishya tried to rescue his son then Rajesh Sah
(Petitioner) gave order to assault the Vikash alias Vicky and co-
accused Nitish Kumar assaulted informant's husband on neck and



right leg by means of Khanti due to which he sustained injury and fell down.

Learned counsel for the petitioner submits that petitioner is in custody since 25.09.2021 and bears no criminal antecedent. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that from perusal of F.I.R. it appears that petition is not the assailant of deceased Bhavishya. Co-accused Vikash alias Vicky and Nitish Kumar assaulted by means of khanti to deceased. Petitioner is only an order giver and there is general and omnibus allegation of assault to all family members but no specific allegation alleged against the petitioner. Learned counsel further submits that the alleged occurrence took place on 19.04.2021 but the informant lodged this case on 24.04.2021, there is an inordinate delay of five days in lodging the F.I.R. without giving any explanation. There is a serious doubt of prosecution case.

The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence and also



taking into consideration the material available on record, let the petitioner above named be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Khagaria in connection with Morkahi P.S. Case No. 47 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) Petitioner shall not leave the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(Alok Kumar Pandey, J)

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