

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71244 of 2021

Arising Out of PS. Case No.-584 Year-2020 Thana- Madhepura District- Madhepura

Nitish Yadav @ Nitish Kumar, S/o- Chano Yadav @ Chandeshwari Yadav,
Resident of Village - Yadav Nagar, P.S. Madehpura (Bharrahi O.P.), District -
Madhepura.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Y. C. Verma, Sr. Advocate

Mr. Nafisuzzoha, Advocate,

For the Opposite Party/s : Ms. Indu Kumari Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 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 Madhepura (Bharrahi) P.S. Case No. 584 of
2020 registered for the alleged offences under Sections 341,
323, 307, 379, 504, 506, 302/34 of the Indian Penal Code.

As per prosecution case, while the nephew of the
informant was returning after attending the call of nature, the
petitioner and other co-accused persons surrounded him and co-
accused persons assaulted him with iron rod. On hearing noise,
the son of the informant reached there and tried to save his



cousin. He was caught hold by the co-accused persons and the petitioner gave him a blow on his head with a sharp *Dabiya* and thereafter he was assaulted by *Lathi* and *Danda* all over his body. The son of the informant was taken to the hospital for treatment and from where he was referred to the Medical College for better treatment. While undergoing treatment, the son of the informant died.

The learned senior counsel appearing on behalf of petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The occurrence as alleged has never taken place. There is undue delay of eleven days in lodging the F.I.R. for which there is no reasonable explanation and it creates doubt over the case of the prosecution. The postmortem report falsifies the allegation of the informant since no heavy sharp-cut injury was found. Rather, the injury was stated to be caused by hard and blunt object, so the allegation of giving *Dabiya* blow against the petitioner is falsified. Learned senior counsel further submits that the petitioner is 19 years old and his whole career would be ruined if he is left to continue in incarceration. The learned senior counsel also submits that a number of co-accused persons including the father of the petitioner have been granted bail by the different Co-ordinate



Benches of this Court vide order dated 30.06.2021 passed in Criminal Misc. No.13792 of 2021, order dated 23.09.2021 passed in Criminal Misc. No. 13317 of 2021, order dated 02.12.2021 passed in Criminal Misc. No. 45889 of 2021, order dated 02.12.2021 passed in Criminal Misc. No. 30801 of 2021 and order dated 02.12.2021 passed in Criminal Misc. 41579 of 2021, respectively. The petitioner is in custody since 21.08.2021.

Learned APP opposes the submission made on behalf of the petitioner submitting that there is specific allegation against the petitioner that he gave *Dabiya* blow on the head of the deceased. The postmortem report also shows injury and bleeding from brain tissues caused by hard and blunt object leading to shock and death. Learned APP further submits that witnesses in paragraphs 7, 8, 9 and 15 of the case diary have supported the prosecution case on the point of assault by this petitioner.

Perused the record.

Having regard to the fact that other co-accused persons have been granted bail by the different Co-ordinate Benches of this Court while mentioning the fact that the allegation of assault upon the deceased is against this petitioner



and notwithstanding the postmortem report regarding nature of weapon of assault, in view of specific nature of allegation of assault against this petitioner, I am not inclined to enlarge the petitioner on bail. Hence, his prayer for bail is rejected.

However, the learned trial court is directed to expedite the trial and conclude the same preferably within a period of nine months.

If the trial is not concluded within the period of nine months, then the petitioner may renew his prayer for bail.

(Arun Kumar Jha, J)

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