

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2181 of 2023

Arising Out of PS. Case No.-246 Year-2022 Thana- BAHERI District- Darbhanga

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Bikash Kumar, Son of Radha Krishna Mandal @ Radha Krishna Singh, R/V-
Kothra, P.S.- Hayaghat, Dist- Darbhanga, Bihar.

... .. Petitioner/S

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Prashant Kumar, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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09-05-2023

Heard learned counsel appearing on behalf of the
petitioner, learned counsel appearing on behalf of the State and
learned counsel appearing on behalf of the Informant.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Baheri
P.S. Case No. 246 of 2022 registered for the offence under
Section 302/34 of the Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 17.08.2022.

The allegation against the petitioner is to commit
murder of his mother-in-law, who is the mother of informant by
means of using knife and Gumti (Sharp Cut Weapon) alongwith
other co-accused persons/family members/co-villagers, due to



previous enmities, arises out of matrimonial discord of the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that the informant is not the eye-witness of the occurrence and this is a case based upon circumstantial evidence. It is submitted that as relation of petitioner with his wife, who is the daughter of deceased is strained as several litigation arises out of matrimonial discord is pending between them, the petitioner was implicated falsely with present case. It is also pointed out that on the fateful night, the petitioner visited to his Sasural as his wife was also there and as occurrence caused by unknown miscreants, petitioner implicated with present case. It is further submitted that as per para 8 of the case diary, blood in nails and on Dhoti of father-in-law of deceased, namely, Jagdeo Mandal was noticed during the course of investigation but admittedly, same was not collected and sent for Forensic examination. It is also pointed out that during the course of investigation, as mentioned in para 60 of the case diary, enmity with one co-villager, namely, Ramnath Mandal surfaced as parties were in litigating terms for the title of a disputed land, for which Title Suit No. 246/2022 was pending before the Sub-Judge, Darbhanga, who might killed mother of



informant. It is also pointed out that the postmortem report of the deceased suggesting that she was brutally assaulted by knife and sharp cut weapon but the wife of this petitioner, namely, Sudha Devi, whose statement is available in para 6 of the case diary, stated nothing, whether this petitioner was equipped with any such weapon. It is also pointed out that the allegation as regard to assault is very much general and omnibus against this petitioner. While concluding the argument, it is submitted that petitioner is a man of clean antecedent, and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, duly assisted by learned counsel appearing on behalf of the informant, while opposing the prayer of bail submitted that petitioner was not the regular visitors and as he was in strained relationship with his wife and this circumstance appearing incriminating petitioner. While concluding argument, it is conceded that admittedly informant is not the eye-witness of the occurrence.

Considering the facts and circumstances as mentioned above, as the informant is not the eye-witness of the occurrence, where the wife of this petitioner, who claimed to seen this



petitioner before this occurrence failed to notice any weapon in his hand, which might be used in committing murder, coupled with the fact that petitioner is a man of clean antecedent, who is in custody since 17.08.2022, accordingly petitioner, above named, is directed to be released on bail in connection with Baheri P.S. Case No. 246 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-7, Darbhanga/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C., with further conditions:-

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be



allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(iii) That accused/petitioner shall not induce any threat to any of the witness during pendency of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(iv) That one of the bailors shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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