

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4116 of 2023

Arising Out of PS. Case No.-2 Year-2022 Thana- BARHARIA District- Siwan

ALAMGIR @ GIRI Son of Late Maruf Mia Resident of Village - Gausiya
Hata, P.S.- Barharia, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Dhramveer, Advocate
For the Opposite Party/s	:	Mr.Murli Dhar, App
For the informant	;	Mr. Prashant Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 07-04-2023 Heard learned counsel for the petitioner, the learned
APP for the State as well as learned counsel for the informant.

Petitioner seeks regular bail in connection with
Barharia P.S. Case No. 02 of 2022 dated 02.01.2022 registered
for the offence(s) punishable under Section(s) 147, 148, 149,
341, 323, 325, 307, 302, 120(B) of the Indian Penal Code.

As per the prosecution, the informant's brother was
brutally assaulted by this petitioner and his associates by means
of *lathi*, *danda* and iron rod etc. as a result of which, he
succumbed to his injuries. Further it is alleged that earlier, on
order of this petitioner, some people also assaulted one sujit
Kumar.

The main submissions advanced by the learned



counsel for the petitioner are that in the FIR eight persons including the petitioner have been named as accused, it is evident from the FIR that the informant is not an eye-witness and the allegations levelled in the FIR against the petitioner and co-accused persons are general and omnibus, the petitioner is a Mukhiya of the informant's panchayat owing to which he has been dragged in this case with malice intention. Further submission is that two co-accused persons, namely, Sabir Ali @ Sakir Ali and Ishrat @ Ishrat Ali, carrying similar nature of allegation as per FIR, have been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No. 26582 of 2022 and petitioner has been languishing in jail since 05.12.2022 and against him, investigation has been completed and he has been chargesheeted. Further submission is that against the petitioner, there is criminal antecedent of one case in which he is on bail.

On the contrary, learned counsel appearing for the informant has vehemently opposed the bail prayer and submitted that the bail of the co-accused persons, as mentioned above, was obtained from the concerned Bench by misleading the Bench regarding the number of injuries found on the body of the deceased and that order concerned to said co-accused



persons was passed without perusing the case diary and during investigation one material witness, namely, Allimullah in whose premise the alleged occurrence took place, supported the allegation of the FIR and clearly alleged that this petitioner and co-accused persons in planned manner came at the place of occurrence and killed the victim by assaulting him with means of lathi, danda and rod. It is further submitted by learned counsel that a prayer for cancellation of bail of co-accused persons has been made and the same is pending before the concerned Bench.

Heard the parties and perused the FIR, case diary of this case and postmortem report of the deceased . The instant matter relates to murder, though the informant is not eye-witness of the alleged occurrence but he clearly stated in the FIR that deceased worked at poultry farm of one namely Allimullah and during investigation, the statement of said poultry farm owner was recorded by the investigating officer who supported the allegation of the FIR and stated that the alleged occurrence was committed in a very planned manner and on the body of the deceased, three injuries were found as per his postmortem report though the bail of two co-accused persons, as mentioned above, has been granted by a co-ordinate



Bench of this Court but as per submission made by learned counsel for the informant, prayer for cancellation of their bail has been made and the same is pending before the concerned Bench. Considering all these facts, in my opinion, it is not a fit case for bail to the petitioner at this stage. Accordingly, his bail prayer stands rejected.

The petitioner may renew his bail prayer after the framing of charge upon him or after six months from the date of this order if no progress is made in his trial, whichever is earlier.

(Shailendra Singh, J)

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