

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5456 of 2023

Arising Out of PS. Case No.-404 Year-2018 Thana- BARARI District- Katihar

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UPENDRA MAHTO Son of Late Mahendra Mahto R/V- Gobrahi Diyara, 04
No. Bind Toli, P.S- Kursela Dist- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Yadav,Adv.

For the Opposite Party/s : Mr.Satyendra Prasad,APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

3 15-03-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The present petition is by way of third attempt at the behest of the petitioner for grant of bail in connection with Barari P.S. Case No.404 of 2018, registered for the offences punishable under Sections 302/201/34 of the Indian Penal Code and 27 of the Arms Act inasmuch as all the earlier petitions filed by the petitioner for grant of bail have all stood dismissed by this court.

The accusation against the accused persons including the petitioner herein is regarding them having arrived at the



place of occurrence and having fired upon the brother of the informant, resulting in his instantaneous death on the spot, whereafter the accused persons had thrown the dead body of the deceased near the river Ganges.

The learned counsel for the petitioner has submitted that the petitioner is languishing in custody since 21.10.2019, however, the trial is not progressing, hence, some sympathy may be shown towards this petitioner.

Per contra, learned APP for the State has vehemently opposed the prayer for grant of bail and has submitted that the report submitted by the learned Trial Court dated 3.02.2023 would show that two prosecution witnesses out of six prosecution witnesses have already been examined and the trial is likely to be concluded soon, hence, no sympathy may be shown to the petitioner herein.

Having regard to the facts and circumstances of the case and taking into consideration the materials available on record as also considering the earlier orders passed by this Court rejecting the prayer of the petitioner for grant of bail, especially the one dated 23.09.2022, this Court finds that a *prima facie* case is definitely made out against the petitioner for the offences alleged and moreover, there is no change in circumstance so as



to warrant reconsideration of the prayer of the petitioner for grant of regular bail, hence, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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