

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11359 of 2023

Arising Out of PS. Case No.-572 Year-2022 Thana- BARHARA District- Bhojpur

Rajeshwar Yadav @ Rajesh Yadav, Son of Sri Aklu Yadav, R/V- Saraiyan,
P.S- Barahara, (Krishnagarh) Dist- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ajay Kumar Thakur, Advocate Mr. Ritwik Kumar, Advocate Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s :	Mr. Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-05-2023 Heard Mr. Ajay Kumar Thakur, learned counsel

appearing on behalf of the petitioner and the learned APP for the

State.

The petitioner seeks regular bail, who is in custody in
connection with Barhara (Krishnagarh) P.S. Case No. 572 of
2022 registered for the offence punishable under Sections 302,
201/34 of the Indian Penal Code.

The prosecution case is based on the fardbeyan of the
informant, alleging therein, that while the informant was
sleeping at his *darwaja* along with his brother, in the meantime,
at about 02:00 AM one person, namely, Pintu Yadav came there
and took away his son. At about 05:00 AM, the informant heard
some *halla* that his brother was killed in the orchard of Late
Motichand Mahto in village Saraiya. The informant went there



and found his brother was hanging with mango tree and large number of villagers assembled there. He further alleged that almost a month ago, the accused persons Ghanshyam Yadav, Umesh Yadav, Dinesh Yadav, Rajesh Yadav (petitioner) and Lavkush Yadav assaulted the son of the deceased, who succumbed to the injuries during the course of treatment, whereupon the FIR has instituted against them and the deceased brother of the informant was one of the witnesses in the said case due to which the accused persons threatened him and his brother for withdrawing the case.

Submission has been made on behalf of the petitioner that from the FIR, there is no material suggesting the involvement of the petitioner, save and except the suspicion that a month ago the accused persons, including the petitioner, had threatened the brother of the informant. He next submitted that there is neither any eyewitness to the alleged occurrence nor the post-mortem report suggests that the deceased was subjected to any assault, inasmuch as, no injury has been found over his body and, as such, the viscera/organs have been sent to the FSL. It is also not the case that the petitioner and others have been found at the place of occurrence nor any incriminating material has come suggesting the complicity of the petitioner, apart from



the fact that the petitioner is in custody since 04.11.2022 and, moreover, charge-sheet has already been submitted.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner and other accused persons had threatened prior to the occurrence and the complicity of the petitioner cannot be denied. The petitioner is also named in one another criminal case, as has been mentioned in paragraph no. 3 of the application.

Regard being had to the submissions made on behalf of the parties and considering the fact that the entire case rests on suspicion and save and except suspicion, there is no other material, coupled with the fact that the investigation of the crime is complete, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur at Ara in connection with Barhara (Krishnagarh) P.S. Case No. 572 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the



trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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