

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22684 of 2023

Arising Out of PS. Case No.-133 Year-2022 Thana- BAJPATTI District- Sitamarhi

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Ganesh Mahto Son of Late Niras Mahto Resident of Village - Bangaon
(Dakshin Got), P.O.- Bangaon, P.S.- Bajpatti, District - Sitamarhi, Pin Code -
843314 (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

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

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Learned counsel for the petitioner submits that at
Paragraph 26 in the prayer portion, it has been wrongly
mentioned in the petition that “to the satisfaction of learned
Additional Sessions Judge IXth, Sitamarhi, whereas it should be
“to the satisfaction of learned Sub-Divisional Judicial
Magistrate, Pupri at Sitamarhi”.

3. Learned counsel for the petitioner is directed to
make the necessary correction in course of the day.

4. In the present case, the petitioner seeks bail in
connection with Sessions Trial No. 73 of 2023 arising out of
Bajpatti P.S. Case No. 133 of 2022 registered on 16.05.2022 for
the alleged offences under Sections 302/34 of the Indian Penal



Code.

5. As per prosecution case, there is allegation against the co-accused persons that they surrounded the informant and assaulted him with *lathi*, *danda* etc. When the mother of the informant tried to rescue him, she was also assaulted by the co-accused persons. Further allegation against the co-accused persons is that in their assault, the informant received some injuries while the mother of the informant died. The allegation against the petitioner is that he was also involved in the occurrence.

6. Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. The specific allegation of assault over the informant is against co-accused Om Prakash and Ram Prakash who assaulted the mother of the informant with fists and legs. Learned counsel further submits that postmortem report does not support the case of the informant as the same shows the mother of the informant died due to certain cardiac arrest leading to cardiovascular failure on account of chronic illness of heart. Moreover, the allegation of assault on the mother of the informant or even on the informant is not against this petitioner. Except for general allegations of giving threat, nothing has come up against this



petitioner during investigation. There is no other eye-witness to the alleged occurrence and no injury has been found on the mother of the informant. Similarly placed co-accused has been granted bail by a Coordinate Bench of this Court vide order dated 11.04.2023 passed in Cr. Misc. No. 68261 of 2022. Charge sheet has been submitted in this case under Section 341, 323, 304, 504/34 of the IPC and the petitioner is in custody since 17.05.2022 and he has got no criminal history.

7. Learned APP opposes the prayer for bail.

8. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the distinct lack of material against this petitioner to connect him with the offence as alleged and further considering his period of custody and the submission of charge-sheet against him, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Pupri at Sitamarhi/court concerned in connection with Sessions Trial No. 73 of 2023 arising out of Bajpatti P.S. Case No. 133 of 2022, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:



(i) One of the bailors will be a close relative of the petitioner.

(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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