

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27403 of 2023

Arising Out of PS. Case No.-36 Year-2021 Thana- EKCHARI District- Bhagalpur

PAWAN KUMAR, aged about 35 years, Gender, Male, S/O Babulal Mandal, Resident of village- Khawaspur, P.S.- Ekchari, District- Bhagalpur, Presently resident of Quarter No.- E-9, EF, Railway Colony, Mundichak, P.S.- Tilakamanjhi, District- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ravi Bhardwaj, Advocate
For the Opposite Party/s	:	Mr.Jharkhandi Upadhyay, APP
For the informant	:	Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 21-06-2023

1. Heard the parties.

2. Petitioner seeks regular bail in connection with Kahalgaon Ekchari P.S. Case No. 36 of 2021 dated 13.10.2021 registered for the offences punishable under Sections 147, 149, 341, 323, 307 and 302 of the Indian Penal Code.

3. This is a second attempt of the petitioner for the relief of regular bail after the petitioner's earlier attempt for the same relief was rejected by this court vide order dated 30.08.2022 passed in Cr. Misc. No. 31546 of 2022 preferred by this petitioner.

4. As per allegation, nine accused persons including petitioner came at the place where informant's brothers and



nephew were cutting bamboos and this petitioner assaulted the informant's elder brother by means of lathi and on his direction, other co-accused persons assaulted the informant's another brother and nephew by means of lathi, hasuwa and axe and as per the prosecution, the informant's elder brother died at the spot and informant's nephew died during the course of medical treatment.

5. The main submissions advanced by learned counsel for the petitioner are that the petitioner is a government employee and serving the Indian Railway as T.T.I. since 2008 and the fresh grounds which have entitled this petitioner for again praying for the relief of regular bail are that firstly, the petitioner has been languishing in jail since 13.10.2021; secondly, one co-accused Sadanand Mandal, carrying similar nature of allegation as per F.I.R., has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No.25610 of 2022; thirdly, all the private material prosecution witnesses have been examined and only one official witness and one non-official witness of the prosecution are to be examined; fourthly, the last prosecution witness was examined on 27.02.2023 and thereafter no prosecution witness has been examined till date and fifth ground is that the petitioner's wife is



unwell and petitioner's family members are suffering from hardship on account of petitioner being in jail who is a sole earning member of his family. Further submissions are that the petitioner has fair and clean antecedent and there is no chance of misuse of privilege of bail if he is enlarged on bail and in the trial of petitioner, a petition on behalf of informant under Section 311 of Cr.P.C. has also been filed before the trial court and the same has not been decided which shows that there may occur some delay in the final disposal of the petitioner's trial.

6. Learned counsel appearing for the informant has vehemently opposed the bail prayer and submitted that the instant matter relates to double murder and as per the evidence of two material witnesses, namely, Kalawati Devi and Jagdev Mandal, the petitioner is the main accused and against him there is a specific allegation of having assaulted the deceased persons and five co-accused persons are still absconding and the petitioner himself has filed a petition under Section 408 of Cr.P.C. for transferring the petitioner's trial from the present trial court to another court and the said petition is pending.

7. Heard the parties and perused the materials available before this Court. The instant matter relates to double murder and as per the report of the trial court, most of the



witnesses of the prosecution have been examined except two witnesses and as per above-submission made by informant's counsel, petitioner himself has filed a petition for transferring his case from the present trial court to another court and the same is pending, though on behalf of informant's side, a petition under Section 311 of Cr.P.C. is also pending for final decision before the trial court hence as per my opinion, at this stage, it will not be proper to enlarge this petitioner on bail. Accordingly, his bail prayer stands rejected.

8. Petitioner may renew his bail prayer after three months from the date of this order, if any significant progress is not made in his trial in respect of concluding his case by the trial court.

(Shailendra Singh, J)

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