

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30532 of 2023

Arising Out of PS. Case No.-263 Year-2022 Thana- BAJPATTI District- Sitamarhi

Vimlesh Mahto Son Of Madhuri Mahto @ Madhuri Bhagat Resident Of
Village-Ratanpur, P.S.-Bajpatti, Dist.-Sitamarhi.

... .. Petitioner/S

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Vikash Kumar Jha, Advocate
For the Opposite Party/s	:	Mr.Rajendra Singh, APP
For the informant	:	Ms. Smiti Bharti, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-08-2023 Heard learned counsel appearing on behalf of the
petitioner, learned counsel appearing on behalf of the State and
learned counsel appearing on behalf of the informant.

2. Let the defect(s), if any, be removed within a period
of four weeks from today.

3. The petitioner seeks bail in connection with
Bajpatti P.S. Case No. 263 of 2022 registered for the offence
under Sections 302 and 34 of the Indian Penal Code.

4. The accused/petitioner is named in the F.I.R. and is
in custody since 21.01.2022.

5. The allegation against the petitioner is to commit
murder of son of the informant alongwith other co-accused
persons/family members by fight and fists, where occurrence



arises out of love affairs of deceased with nephew of this petitioner.

6. Learned counsel appearing on behalf of the petitioner submitted that informant is not the eye witness of the occurrence and entire implication is based upon suspicion. It is submitted that even narration of FIR speaks clearly that allegation *qua* physical assault is appearing very much general and omnibus. It is further submitted that one of the named co-accused, namely, Malti Devi has already granted bail by one of the learned co-ordinate Bench of this Court through Cr. Misc. No. 38240 of 2023 dated 07.07.2023 by taking note of same fact that allegation *qua* physical assault is appearing very much general and omnibus. While travelling over the argument, it is submitted that the injured eye-witness, namely, Chanchala Kumari, with whom deceased solemnized marriage named two more co-accused persons, namely, Parikshan Ram and Sujit Kumar during course of investigation, where said co-accused Parikshan Ram has already granted bail by one of the learned co-ordinate Bench of this Court through Cr. Misc. No. 21537 of 2023 dated 13.07.2023. It is submitted that even as per medical report, only one external injury was noticed that is near to back of left elbow beside Haematoma, causing internal injury to the



brain and these injuries not appears convincing particularly in the backdrop, where it has been alleged that deceased was assaulted by 5 named and 5-6 unknown co-accused persons. It is submitted that FIR was lodged with a delay of more than 45 days, where death of son of informant took place after about 40 days of the occurrence, after which the present FIR was lodged by informant. While concluding the argument, it is submitted that petitioner found involved in two more criminal cases, i.e. of Excise cases, where he is on bail, and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP, duly assisted by learned counsel Ms. Smiti Bharti while appearing on behalf of the informant submitted that this is a case of owner killing. It is pointed out that most important witness of the trial is is injured eye-witness Chanchala Kumari, who is to examine on 9th of August, 2023.

8. Considering the facts and circumstances as mentioned above and by taking note of fact as FIR in present case appears to be lodged after more than 45 days of the occurrence, having general and omnibus allegation *qua* physical assault against petitioner, where informant is not appearing eye-



witness of the occurrence, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 21.01.2022, accordingly, petitioner above named, is directed to be released on bail in connection with Bajpatti P.S. Case No. 263 of 2022 in S.Tr. No. 31/2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned ADJ-XV, Sitamarhi/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C., with further conditions:-

(i) That the bail bond of petitioner shall be accepted by the trial court after 9th of August, 2023.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the court below.

(iii) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J)

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