

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25685 of 2023

Arising Out of PS. Case No.-211 Year-2022 Thana- GURUA District- Gaya

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Dukhi Malah @ Dukhi Mallah Son of Late Mungeshwar Mallah R/V- Usewa,
PS- Gurua, Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate

For the Opposite Party/s : Mr.Ajay Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 23-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Gurua P.S. Case No. 211 of 2022 registered on 28.06.2022 for the alleged offences under Sections 341, 302 and 504/34 of the Indian Penal Code.

3. As per prosecution case, in the background of dispute over construction of the house as the petitioner and other co-accused persons was extending the plinth in the land of the informant, the petitioner and co-accused persons assaulted the husband of the informant, who fell down and became unconscious due to the assault. The husband of the informant



died during his treatment in the hospital.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. There is no specific allegation of assault against this petitioner and the said allegation is against co-accused Rajesh Mallah, who assaulted the husband of the informant on his head with an iron rod. The said injury became fatal and husband of the informant died. Otherwise, allegations are quite general and omnibus against the petitioner and other co-accused persons. There is no allegation against the petitioner to have assaulted the husband of the informant, though, the allegation is in the FIR about the petitioner and co-accused persons of catching hold of the husband of the informant. Co-accused Baleshwar Mallah having similar allegation has been granted bail by a Co-ordinate Bench vide order dated 16.05.2023 passed in Cr. Misc. No. 20034 of 2023. The petitioner is in custody since 29.06.2022 and charge sheet has been submitted. The petitioner has got no criminal antecedent.

5. Learned APP opposes the prayer for bail submitting that the petitioner and other co-accused persons caught hold of the husband of the informant and co-accused



Rajesh Mallah given blow of iron rod.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the lack of material to connect this petitioner with the offence alleged and also considering the fact that the specific allegation of giving blow on the head of the husband of the informant with iron rod is against co-accused Rajesh Mallah and not against the petitioner and further considering period of custody of the petitioner with clean antecedent and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Sherghati, District - Gaya/concerned court in connection with Gurua P.S. Case No. 211 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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



bonds of the petitioner will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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