

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32275 of 2022

Arising Out of PS. Case No.-2 Year-2021 Thana- KHAIRA District- Jamui

Bhuna Yadav, Son of Late Chetan Yadav, Resident of Village - Laldaiya, P.S.-
Khaira, District - Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Mishra, Advocate

For the Opposite Party/s : Mr.Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 25-01-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in connection with S.T.
No.278 of 2021, arising out of Khaira P.S. Case No.02 of 2021,
registered for the offence punishable under Section 302/34 of
the Indian Penal Code and Section 3/4 of the Prevention of Witch
Practice Act.

As per the prosecution case, petitioner is informant's
cousin. Petitioner's grandson (Ludna) has died due to some
illness, whereafter petitioner and co-accused Mukesh, nephew
of the informant, have assaulted informant's wife in the night of
01.01.2021 and put a noose around her neck, alleging that she
was responsible for death of Ludna by practising witchcraft.
Informant was frightened and fled away. He has returned on the



next day in the morning to find his wife dead.

The learned counsel for the petitioner submits that the instant case has been lodged on extraneous considerations, which is obvious from the fact that the petitioner's wife has also lodged Khaira P.S. Case No.03 of 2021, alleging offence under Section 302 I.P.C. for alleged murder of her grandson. Even otherwise, the prosecution case is highly unbelievable that the informant has left the house at 12 O'Clock in the night after witnessing assault of his wife and after seeing that petitioner and co-accused Mukesh were trying to strangle his wife; still he has not lodged the FIR till 10.50 A.M. on the next day. As per the FIR, it is obvious that the parties are agnates and there is subsisting dispute between them. Petitioner is aged more than 70 years and on account of such false implication, based on extraneous considerations, he is in custody since 14.01.2021, though he has no antecedents.

Learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, the manner of implication, period of custody as also his clean antecedents, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for



bail of the petitioner is allowed.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned District & Sessions Judge, Jamui, in connection with S.T. No.278 of 2021, arising out of Khaira P.S. Case No.02 of 2021, subject to the following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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