

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35007 of 2023**

Arising Out of PS. Case No.-248 Year-2020 Thana- BATHNAHA District- Sitamarhi

SURENDRA SHARMA @ SURENDRA THAKUR S/O JODHAN
THAKUR R/O Village- Koili, P.S.-Bathanaha, District-Sitamarhi

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeeva Roy, Sr. Advocate

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 09-08-2023 Heard Mr. Rajeeva Roy, learned Senior Counsel for
the petitioner and Mr. Jitendra Kumar Singh, learned APP for
the State.

The petitioner is in judicial custody in connection
with Bathanaha P.S. Case No. 248 of 2020 for the offences
under Section 302/120(B)/34 of the Indian Penal Code lodged
on 29.10.2020 by the informant, Nitesh Thakur.

Earlier the Cr. Misc. No.37736 of 2022 was rejected
on 27.09.2022.

A report was called for which has since been received
vide letter no.27/2023 dated 01.07.2023, according to which the



charges have been framed whereafter the Incharge Court of Additional Sessions Judge, VII is vacant since 30.01.2023.

Prosecution story read as follows:

As per the FIR, it is alleged that the co-accused Raju Sharma came at the door of the informant and started pulling his sister. On her alarm, he and his family members came out of their house and thereafter, the accused fled away after threatening her. After some time, all the accused persons again came to the house of the informant and thereafter one of the co-accused, namely, Kapleshwar Sharma pulled out his mother on the road and cut the elbow of her left hand by sword and the other co-accused Surendra Sharma (petitioner) too assaulted cutting vein of left hand as a result of which mother of the informant fell down and she later succumbed to the injuries. Accordingly, the FIR was lodged and the petitioners were taken into custody.

Learned Senior Counsel submits that the petitioner has already been in jail for more than one year and there is no sight of Trial being taken up. He is ready to abide by all terms and conditions.

Learned APP opposes the prayer stating that the petitioner played an active role.



Taking into account the fact that the petitioner has remained in custody since 22.03.2022 (Para-12 of the petition), he do not have criminal antecedent, as per the report, though the charges have been framed, trial is at initial stage and further co-accused Raushan Sharma has been granted bail, this Court is inclined to grant him relief.

Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Bathanaha P.S. Case No. 248 of 2020 to the satisfaction of learned 7th Additional Sessions Judge, Sitamarhi, subject to following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month till conclusion of the trial to mark attendance;



(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Prakash Narayan

U		T	
---	--	---	--

