

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36667 of 2023

Arising Out of PS. Case No.-61 Year-2021 Thana- UDWANTNAGAR District- Bhojpur

Surendra Mushar S/O LATE BHADHER MUSHAR R/O Vill. Belaur, PS.
Udawanagar, Dist. Bhojpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Singh, Advocate
For the Opposite Party/s : Mr. Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

9 22-12-2023 Heard learned counsel for the petitioner and learned
APP for the State.

02. This is the second attempt of the petitioner to seek bail from this Court in connection with Udwanagar P.S. Case No. 61 of 2021, registered on 04.02.2021 for the alleged offences under Sections 147, 149, 452, 323, 307, 302, 504 of the Indian Penal Code, as his prayer for bail was earlier rejected vide order dated 05.07.2022 passed in Criminal Misc. No. 40337 of 2021.

03. As per prosecution case, the allegation against the petitioner is that the petitioner and other co-accused persons took out the husband of the informant from his house and also assaulted him with legs and fists, causing internal injuries to him. The husband of the informant lost his life during his treatment.



04. Learned counsel for the petitioner submits that the petitioner is in custody since 20.02.2021 and though the learned trial court was directed to expedite the trial and conclude the same within a period of nine months, the matter is still at the stage of recording of evidence of prosecution witnesses. Learned counsel further submits that the prosecution story is not believable. The husband of the informant was allegedly assaulted on 30.01.2021 and he was treated in the hospital and was brought to his house and thereafter, his condition deteriorated and he died on 03.02.2021. So, it is not believable that the husband of the informant died due to assault made by the petitioner and other co-accused persons, though the allegation on this count against the petitioner is totally false and concocted. Further, the F.I.R. has been lodged on 04.02.2021 for an occurrence dated 30.01.2021 and this delay has not been explained. Learned counsel further submits that similarly placed co-accused Usha Devi has been granted bail by a Co-ordinate Bench vide order dated 26.09.2022 passed in Criminal Misc. No. 37938 of 2021. The petitioner has got no criminal history.

05. Learned APP for the State opposes the prayer for bail. Learned APP submits that no new facts have come up before this Court to reconsider the prayer for bail of the



petitioner.

06. Perused the records.

07. Towards compliance of the order dated 10.11.2023, a report dated 23.11.2023 has been received from the learned trial court, wherein it has been submitted that out of seven charge-sheet named witnesses, four witnesses have been examined and despite best efforts, the trial could not be concluded by learned trial court within the stipulated period granted by this Court due to non-production of prosecution witnesses.

08. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the likelihood of delay in conclusion of trial in light of report of the learned trial court and further considering the report of learned Trial Judge wherein he has further sought extension of time and also considering the period of custody of the petitioner, 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 Chief Judicial Magistrate Bhojpur at Ara/concerned court in connection with Udawantnagar P.S. Case No. 61 of 2021 subject to the conditions mentioned in Section 437(3) of



the Cr.P.C. and 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 for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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