

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49852 of 2023

Arising Out of PS. Case No.-204 Year-2021 Thana- GORIAKOTHI District- Siwan

SUBHASH MISHRA S/O JAGAT KISHOR R/O VILLAGE- SAIDPURA,
PS. GOREAKOTHI, DIST. SIWAN, BIHAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Rajesh Roy, Advocate
For the Opposite Party/s	:	Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 22-12-2023

1. Heard learned counsel for the parties.

2. The petitioner has renewed his prayer for bail in connection with Goriakothi P.S. Case no. 204 of 2021 registered under section 307 and other sections of the Indian Penal Code to which section 302 of the Indian Penal Code was added subsequently.

3. As per the prosecution case, the petitioner is said to have given knife blow on the chest of the uncle of the informant namely Rameshwar Tiwary who subsequently died.

4. It is submitted by learned Senior counsel for the petitioner that the earlier application for bail of the petitioner was rejected vide order dated 19.12.2022 (Annexure-1) passed in Cr. Misc. no.10720 of 2022.



5. It is submitted by learned Senior counsel for the petitioner that contrary to the allegations in the FIR lodged by the informant, the statement of the injured, who subsequently died was recorded under section 161 Cr.P.C. wherein he states that it was the coaccused Rohit who gave him the knife blow. The petitioner is not even said to be carrying any weapon/knife. With respect to the statement of the two prosecution witnesses examined in course of trial it is submitted that the same is an afterthought and a subsequent event. The statement of the injured (since deceased) in paragraph no.3 and injured Raghuwar Tiwary in paragraph no.4 be considered wherein both of them named Rohit Mishra as giving the knife blow. The petitioner is in custody since 11.11.2021 and undertakes to cooperate in the trial.

6. Heard learned A.P.P. for the State and learned counsel for the informant. Learned counsel for the informant submits that there is direct allegation against the petitioner of having given knife blow resulting in death of the uncle of the informant. So far as the statement of the witness Raghuwar Tiwary in paragraph no.4 of the case diary is concerned, in course of trial he names the petitioner as an assailant and has further stated that even in course of investigation before the



Investigating Officer, he had named this petitioner.

8. In the facts and circumstances of the case, the petitioner being the assailant of the deceased together with the trial in the learned trial Court having progressed, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

(Partha Sarthy, J)

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