

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.51358 of 2023**

Arising Out of PS. Case No.-11 Year-2023 Thana- MOHIUDDIN NAGAR District-  
Samastipur

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Phul Chan Sahni Son Of Late Banthu Sahni Resident Of Village -  
Narayanpur, P.S. - Mohiuddinnagar, District - Samastipur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Ms. Vaishnavi Singh, Advocate  
For the State : Mr. Syed Ehteshamuddin, APP  
For the Informant : Mr. Pankaj Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

3      11-10-2023                      Heard learned counsel for the petitioner and Mr. Syed Ehteshamuddin, learned APP for the State and learned counsel for the informant.

2. The petitioner seeks bail in connection with Mohiuddinnagar P.S. Case No. 11 of 2023 registered for the offence punishable under Sections 302/34 of the Indian Penal Code.

3. As per the prosecution case, the petitioner who is the own brother of the deceased is said to have given a knife



blow upon the deceased in a fight that took place between brothers.

4. Learned counsel for the petitioner submits that no case under Section 302 of the Indian Penal Code is made out against the petitioner and the present may be a case of culpable homicide not amounting to murder for which the maximum punishment may be 10 years and the petitioner is in jail since 30.01.2023.

5. Learned APP assisted by learned counsel for the informant has opposed the prayer for bail and they have submitted that the petitioner is the assailant of the deceased.

6. No doubt, the petitioner is the assailant of the deceased. But from the facts of the case, it appears that one brother is said to have killed another brother in the heat of the moment and in my opinion for the purposes of bail, no case under Section 302 but case under Section 304 of the Indian Penal Code is made out.

7. This application is allowed.

8. Let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1<sup>st</sup> Class, Samastipur in connection



with Mohiuddinnagar P.S. Case No. 11 of 2023.

9. The petitioner is directed to co-operate in the trial.

**(Sandeep Kumar, J)**

P. Kumar

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