

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55899 of 2022

Arising Out of PS. Case No.-205 Year-2022 Thana- BAHADURPUR District- Darbhanga

Subhash Sah S/o Rambabu Sah Resident of village- Hasanpur, P.S.-
Bahadurpur (Sonki O.P.), District- Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Adv. Mr. Jitendra Kumar Bharti, Adv.
For the Opposite Party/s	:	Mr. Awadhesh Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 16-02-2023 Heard Mr. Yogesh Chandra Verma, learned senior counsel for the petitioner duly assisted by Mr. Jitendra Kumar Bharti, learned counsel and Mr. Awadhesh Kumar Singh, learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody in connection with Bahadurpur (Sonki O.P) P.S. Case No. 205 of 2022, initially registered for the offences punishable under Sections 341, 323 and 307/34 of the Indian Penal Code and later on Section 302 was added.

As per the *fardbeyan* of the informant, it is alleged that with respect to the land dispute between the informant and co-accused Munna Sah, measurement was done and certain land found encroached by the co-accused and a date has been fixed



for final measurement on 23.05.2022. However, in the meantime, on 17.05.2022, while the informant's husband went to attend the call of nature, in the meantime, all the accused persons including the petitioner brutally assaulted him by means of *lathi*, *danda* and iron rod and put him under the informant's stair. It is further alleged that when she woke up, her husband narrated the occurrence and whereafter he was taken to D.M.C.H. and thereafter accused persons also went there and told the doctor not to admit the injured and whereafter he was taken to R.B. Memorial hospital where he succumbed to his injury.

Learned senior counsel appearing on behalf of the petitioner submits that admittedly the informant is not an eyewitness to the alleged occurrence and only as there was a land dispute pending between the parties, the names of all the family members including the petitioner have been given with a view to make undue pressure upon them. He further submits that from the FIR, the story appears to be improbable for the simple reason that the accused persons firstly assaulted the husband of the informant when he went to attend the call of nature and, thereafter, same person will bring the injured again in his house and by putting him under the stair of his house, fled



away. He next submits that had the injured husband was capable enough to speak, his statement must have been recorded by the police or even by the treating doctor, but that has not been done so. He also drawn the attention of this Court towards the information received under the Right to Information Act, which suggests that the deceased was admitted on 17.05.2022 at 05:51 AM for his treatment at D.M.C.H. but without consultation of doctor, the petitioner was taken away to a private hospital, where he succumbed to his injury. He next submits that during the course of investigation, no independent witness has come forward and save and except the suspicion that too on account of old enmity, there is no material suggesting the complicity of the petitioner in the commission of crime. He lastly submits that postmortem report also suggests that the deceased died due to intracranial hemorrhage compression and shock caused by hard and blunt force and, moreover, the petitioner has remained in custody for over a period of seven months.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the postmortem report indicates that the deceased was brutally assaulted by various persons, as multiple injuries, caused by hard and blunt substance, have been found. He further



submits that the reason behind the said occurrence is apparent in view of the fact that certain land was found encroached by co-accused Munna Sah and his family members, which was protested by the husband of the informant. He next submits that all the independent witnesses have also supported the prosecution case and it is a case of dying declaration where the deceased before his death has narrated the entire incidence.

Learned counsel for the State also opposes the bail application.

Regard being had to the submissions made on behalf of the parties and considering the fact that there is no eyewitness to the alleged occurrence and the improbable story of the prosecution that the husband of the informant was initially brutally assaulted and, thereafter, he was brought to his house and by putting him under the stair of his house, all the accused persons fled away, apart from the fair antecedent of the petitioner and the completion of investigation, let the petitioner, named above, 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 S.D.J.M., Darbhanga, in connection with Bahadurpur (Sonki O.P.) P.S. Case No. 205 of 2022 subject to the condition that one of the bailors will be



the close relatives of the petitioner with further conditions
which are as follows:-

(i) The petitioner will cooperate in conclusion of
the trial.

(ii) He will remain present on each and every date
of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or
intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates
without any cogent reason, his bail bonds will liable to be
cancelled.

(Harish Kumar, J)

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