

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55984 of 2022

Arising Out of PS. Case No.-264 Year-2020 Thana- PALASI District- Araria

Rajendra Yadav @ Baldev Yadav, S/o Late Dhanlal Yadav R/V- Karor, Ward No.-11, P.S.- Palasi, Distt- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rabindra Kumar Priyadarshi, Advocate Mr. Dheeraj Kumar, Advocate
For the Opposite Party/s	:	Mr. Narendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

2 12-05-2023 The applicant/accused Rajendra Yadav @ Baldev Yadav in Crime No.264 of 2020 registered with Palasi Police Station giving rise to Session Trial No.133 of 2021 for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code registered on 18.08.2020, by this application has renewed his prayer for grant of bail.

Heard the learned counsel appearing for the applicant/accused. He vehemently argued that by order dated 09.06.2022 passed in Cr. Misc. No.4961 of 2022, the Coordinate Bench of this Court has been pleased to release co-accused Ritesh Yadav and Asha Devi on bail. It is further argued that allegations against the applicant are general and vague in nature and, therefore, he is also entitled for bail as co-accused are



released on bail. It is further argued that the applicant is undergoing pre-trial detention from 19.08.2020 and as yet not a single witness has been examined by the prosecution.

The learned Additional Public Prosecutor opposed the application by contending that earlier bail application of the applicant is already rejected on merit and, therefore, this second bail application cannot be entertained.

I have considered the submissions so advanced. I have also perused the order granting bail to the co-accused by the Coordinate Bench of this Court with a reason that allegations are general and vague without attributing any specific overt act. I am not inclined to accept the reasoning so given because the FIR lodged by the son-in-law Pappu Kumar Yadav makes it clear that his father-in-law Satya Narayan Choudhary (since deceased) was assaulted by the applicant as well as others by means of fist and kick blows as well as knife. These averments are duly corroborated by the report of post-mortem examination of Satya Narayan Choudhary. Therefore, at such pre-trial stage, it is not possible to venture in giving a finding that allegations are vague and general in nature.

Be that as it may, the applicant is reportedly undergoing pre-trial detention from 19.08.2020. He is being



prosecuted for the offence punishable under Section 302 with the aid of Section 34 of the Indian Penal Code with an accusation that he has assaulted the deceased along with other persons in furtherance of their common intention to eliminate Satya Narayan Choudhary. The applicant has already undergone pre-trial detention of about three years. In the matter of **Anurag Baitha vs. State of Bihar** reported in **1987 PLJR 485**, Full Bench of this Hon'ble Court has held that when there is inordinate delay in conducting the trial, the accused who is being prosecuted with the aid of Section 34 needs to be released on bail. In the case in hand also, the applicant has undergone pre-trial detention from 19.08.2020 till date. I accept the statement made at bar by the learned counsel for the applicant that as of now, not a single witness has been examined by the prosecution and it is doubtful as to whether the charge has been framed. Hence, by applying ratio of the ruling in the matter of **Anurag Baitha (Supra)**, the following orders:-

(i). The application is allowed.

(ii). The applicant/accused in Crime No.264 of 2020 registered with Palasi Police Station for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, be released on bail on executing P.R. Bond of Rs.15,000/-



(Rupees Fifteen Thousand) and on furnishing two sureties of the like amount each to the satisfaction of the Trial Court with the following conditions:-

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the Trial Court in expeditious disposal of the trial against him by attending each and every date of hearing, unless exempted by the learned Trial Court.

(III) The applicant/accused should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

(IV) The applicant/accused should not tamper prosecution evidence in any manner.

(A. M. Badar, J)

Saurabhkrsinha/
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