

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59590 of 2023

Arising Out of PS. Case No.-170 Year-2021 Thana- CHAUSA District- Madhepura

Banarsi Yadav Son Of Late Chamaklall Yadav Resident Of Village- Duriya
Savtari, Ward No. 12, P.S.- Chausa, Distt- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Uday Chand Prasad, Advocate

For the Opposite Party/s : Mr.Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 08-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Chausa P.S. Case No. 170 of 2021, registered on 25.12.2021 for the alleged offence under Sections 341, 323, 307, 302, 120B/34 of the Indian Penal Code.

3. This is the second attempt of the petitioner to seek bail from this Court. Earlier the prayer for bail of the petitioner was rejected vide order dated 04.11.2022 passed in Cr. Misc. No. 31196 of 2022.

4. As per prosecution case, the petitioner along with co-accused Shambhu Yadav and others assaulted the younger brother of the informant with *lathi* and *danda*, who died while being taken to the Hospital. Further allegation against the co-



accused persons that they assaulted the informant and his family with *lathi* and *danda*.

5. Learned counsel for the petitioner submits that the petitioner is in custody since 26.12.2021 and there is no progress in the trial and only on 06.06.2023 charges have been framed and no witness has been examined till filing of the instant bail petition. Learned counsel further submits that the allegation is not specific against the petitioner rather the same is general and omnibus. The same allegation is also against two other co-accused persons, However, the same is not corroborated from the injury reported on the victim since only one injury, i.e., a lacerated wound 3cm x 1cm x muscle deep has been seen at the parietal area of scalp but for causing this injury the allegation is against three persons, which shows the petitioner has falsely been implicated in this case. Learned counsel further submits that further development in the case is that similarly situated co-accused Vijay Yadav has been granted bail vide order dated 24.02.2023 passed in Cr. Misc. No. 59871 of 2022 by a Co-ordinate Bench and co-accused Shambhu Yadav has been granted bail vide order dated 25.08.2023 passed in Cr. Misc. No. 46807 of 2023 by this Court.

6. Learned APP opposes the submission made on



behalf of the petitioner. Learned APP submits that no new ground has been brought on record by the petitioner.

7. Having regard to the facts and circumstances of the case and considering the report of the learned trial court dated 07.08.2023, which was called for in Cr. Misc. No. 46807 of 2023, wherein it has been mentioned that the prosecution has failed to produce even one witness in the case despite issuance of summons and further considering the delay in conclusion of trial and period of incarceration of the petitioner coupled with the fact that similarly situated co-accused has been granted bail, 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 District & Sessions Judge, Madhepura/concerned court in connection with Chausa P.S. Case No. 170 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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 on three consecutive dates or in violation of the terms of the bail, the bail



bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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