

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72976 of 2023**

Arising Out of PS. Case No.-362 Year-2020 Thana- CHAPRA MUFFASIL District- Saran

UPENDRA RAI @ UPENDRA S/O DAROGA RAI R/O KHALPURA, P.S-
MUFASSIL AND THE DISTT.- SARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shiv Shankar Prasad Yadav, Advocate
For the Opposite Party/s : Mrs.Pushpa Sinha.1, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 22-11-2023 Heard the parties.

2. The petitioner is in judicial custody in connection with Mufassil P.S. Case No. 362 of 2020 for the offence punishable under Sections 147/323/307/302 of the Indian Penal Code and section 27 of the Arms Act lodged on 14.8.2020 by the informant, Rabindra Rai.

3. As per the prosecution story, the allegation against Daroga Rai and this petitioner is of assaulting the Nand Kishore Rai with 'Tangi' on his head causing his death. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that a perusal of the FIR would show that omnibus allegation against both Daroga Rai and Upendra Rai is/are there to have given 'Tangi' blow on the head of the Nand Kishore Rai (deceased). The further submission is that similar placed co-accused Daroga



Rai has since been granted bail in Cr. Misc. No. 6311 of 2022 on 19.9.2022.

5. The last submission is that he has already suffered by being in custody for last three years and do not have criminal antecedent.

6. Learned APP opposes the prayer stating that allegation against him as also Daroga Rai was/were of assaulting Nand Kishore Rai which proved fatal.

7. Taking into account the submission put forward by the learned counsel for the petitioner, allegation of assault is both on Daroga Rai and Upendra Rai, Daroga Rai has since been granted bail, as stated above, the petitioner do not have criminal antecedent and is in custody since 7.9.2020 (para-9 of the petition), this Court is inclined to extend him the privilege of bail with conditions.

8. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Additional District and Sessions Judge-4th, Saran at Chhapra, in connection with Chhapra Mufassil P.S. Case No. 362 of 2020 subject to the following conditions:

(i) one of the bailor should be the family member of



the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

9. With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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