

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.66752 of 2022**

Arising Out of PS. Case No.-170 Year-2021 Thana- KHIJARSARAI District- Gaya

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Jitendra Mahto @ Jitendra Prasad @ Jitendra Kumar Son of Vinod Mahto  
Resident of Village- Satamas, P.S.- Khizersarai, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate.

For the Opposite Party/s : Mr. M.K. Nirala, APP.

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

2      25-02-2023                      Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Manoj Kumar Singh, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Khizersarai P.S. Case No. 170 of 2021, registered for the offences punishable under Sections 279, 304, 304(A) of the Indian Penal Code.

The prosecution case is based on the written report of the informant alleging therein that on 24.06.2021, while the son of the informant along with other children were playing in the temple, in the meantime, on account of rash and negligent driving of the petitioner an accident occurred causing the death



of the son of the informant. Other boys also received serious injuries.

Learned counsel appearing on behalf of the petitioner submits that from the tenor of the FIR, it is evident that the death has occurred on account of rash and negligent act and as such the only offence is made out under Section 304A of the Indian Penal Code, which is bailable. He next submits that admittedly the occurrence took place on 24.06.2021 and thereafter postmortem has been done on 25.06.2021 and this case has been instituted subsequently on 26.06.2021 without explaining any plausible cause of delay. He further submits that the petitioner having fair antecedent, is in custody since 31.08.2022, and he is ready to give undertaking that he will fully cooperate in the trial till its conclusion and more so charge-sheet has been submitted and as such there is no chance of tempering of the evidence or threatening the witnesses.

On the other hand learned APP for the State vehemently opposes the bail application and submits that on account of rash and negligent act of the petitioner the son of the informant died.

Regard being had to the submissions made on behalf of the parties and considering the nature of allegation of rash



and negligent driving resulting into death of the boy and the delay in lodging of the FIR coupled with the period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IV, Gaya in connection with Khizersarai P.S. Case No. 170 of 2021, 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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