

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.67325 of 2023**

Arising Out of PS. Case No.-584 Year-2020 Thana- MADHEPURA District- Madhepura

Nitish Yadav @ Nitish Kumar, S/o Chano Yadav, Resident of Village- Yadav  
Nagar, P.S. Madhepura (Bharrahi O.P), Dist. Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                            |   |                                                                |
|----------------------------|---|----------------------------------------------------------------|
| For the Petitioner/s       | : | Mr. Sanjay Yadav, Advocate<br>Mr.Surya Narayan Yadav, Advocate |
| For the Opposite Party/s : |   | Mr.Gauri Shankar Gupta, APP                                    |

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL ORDER**

3      03-11-2023                      Heard learned counsel for the petitioner and learned  
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Sessions Trial No. 136 of 2021, arising out of Madhepura (Bharrahi O.P.) P.S. Case No. 584 of 2020, registered on 03.08.2020 for the alleged offence under Sections 341, 323, 307, 379, 504, 506, 302/34 of the Indian Penal Code.

3. This is the second attempt of the petitioner to seek bail from this Court as his prayer for bail was earlier rejected vide order dated 16.11.2022 passed in Cr. Misc. No. 71244 of 2021. While rejecting the prayer for bail of the petitioner, the learned trial court was directed to expedite the trial and conclude the same within a period of nine months and petitioner



was granted liberty to renew his prayer for bail, if the trial was not concluded within the stipulated period.

4. As per prosecution case, the petitioner and other co-accused persons surrounded the nephew of the informant and assaulted him with iron rod. When the son of the informant came for his rescue, he was caught hold by co-accused persons and the allegation against this petitioner is that he gave *Dabiya* blow on the head of the son of the informant. Other accused persons brutally assaulted with *lathi* and *danda*. The victims were taken to the hospital where the son of the informant lost his life during treatment.

5. Learned counsel for the petitioner submits that the petitioner is in custody since 21.08.2020. Learned counsel further submits that the charges were framed on 06.07.2021 but since then not a single witness has been examined. Learned counsel further submits that the FIR has been registered after undue delay of 11 days for which there is no satisfactory explanation. The petitioner is a young man and is having no criminal history. The postmortem report falsify the allegation against the petitioner since injuries of heard and blunt object was found on the head of the deceased and no sharp cut injury was found. Moreover, the allegation of assault is against a



number of persons with *lathi* and *danda*. Learned counsel further submits that all other co-accused persons have been granted bail by different Co-ordinate Benches of this Court and this fact has been mentioned in paragraph 17 of the instant petition. The case of the petitioner is on similar footing.

6. Learned APP opposes the submission made on behalf of the petitioner but fairly concedes that no witness has been examined till date even after the petitioner is in custody for more than three years.

7. Having regard to the facts and circumstances of the case and submissions made on behalf of the parties and considering the fact that the petitioner is in custody since 21.08.2020 and no witness has been examined in this case even after framing of charge in the year 2021 and grant of bail to all other co-accused persons, 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 Additional Sessions Judge- I, Madhepura/concerned court in connection with Sessions Trial No. 136 of 2021, arising out of Madhepura (Bharrahi O.P.) P.S. Case No. 584 of 2020, 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)**

DKS/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

