

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70010 of 2023

Arising Out of PS. Case No.-65 Year-2022 Thana- GAMAHARIYA District- Madhepura

Mahendra Yadav Son of Late Anirudh Yadav Resident of Village - Mohanpur,
P.S. and District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rahul Kumar, Advocate

For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 07-11-2023 Heard learned counsel for the petitioner and learned
APP for the State.

02. In the present case, the petitioner seeks bail in connection with Gamhariya P.S. Case No. 65 of 2022 registered on 19.04.2022, for the alleged offences under Sections 447, 323, 324, 326, 307, 302, 504, 506, 341 and 34 of the Indian Penal Code.

03. As per prosecution case, the co-accused persons started erecting a hut on the purchased land of the informant and when it was opposed by the informant, he was assaulted by co-accused Santosh Sharma. Thereafter the petitioner and other co-accused persons also joined him and they were armed with *lathi*, *danda* and *farsa*. On the instigation of the petitioner, co-accused Santosh Sharma struck the father of the informant on



his head who fell down and became unconscious and thereafter the family members of the informant were assaulted by the petitioner and other co-accused persons. However, the informant's father was declared dead when he was taken to the Primary Health Center.

04. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The allegations are mostly general and omnibus against the petitioner and other co-accused persons and no specific over act has been attributed to the petitioner. Further, for the same occurrence, Gamhariya P.S. Case No. 67 of 2022 has been lodged by the co-accused Santosh Sharma against the informant of this case and other persons of informant's side. Learned counsel further submits that the informant has been wrongly claiming the alleged piece of land to be his own whereas the land belongs to the petitioner and others who are poor people and the informant of this case is an influential person and he has lodged the case on false and fabricated ground. The present case has been lodged to dislodge the petitioner and other co-accused persons from the said land. Learned counsel further submits that the co-accused Santosh Sharma against whom there is allegation of hitting the father of the informant who has since died, has



been granted bail by a Co-ordinate Bench vide order dated 23.06.2023 passed in Criminal Misc. No. 16424 of 2023. The other similarly situated co-accused persons, namely, Shivnandan Sharma @ Shivnandra Sharma and Binod Sharma have also been granted bail by the different Co-ordinate Benches vide order dated 02.02.2023 passed in Criminal Misc. No. 56036 of 2022 and order dated 03.08.2023 passed in Criminal Misc. No. 47185 of 2023, respectively. The petitioner is in custody since 28.03.2023 and charge-sheet has been submitted. The petitioner was an accused in a complaint case bearing No. 230(C) of 2018, from which, he was discharged.

05. Learned APP for the State opposes the prayer for bail submitting that due to assault by the petitioner and others one person has lost his life.

06. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that no specific over act has been attributed to the petitioner who is said to be an order giver without any specific allegation of assault and further considering the background of land dispute and the case and counter case between the parties and also considering the period of custody of the petitioner along with submission of charge-sheet, 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 Chief Judicial Magistrate-II, Madhepura in connection with Gamhariya P.S. Case No. 65 of 2022 subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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 for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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