

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67877 of 2022

Arising Out of PS. Case No.-3 Year-2021 Thana- KURSAILA District- Katihar

SANTOSH MAHTO Son of Late Subhi Lal Mahto Resident of village -
Gandhigram Bind Toli, P.S.- Kursela, District - Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimal Kumar

For the Opposite Party/s : Mr. J.N. Thakur, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

4 28-03-2023 Heard the learned counsel for the petitioner as well as
the learned Additional Public Prosecutor for the State.

The petitioner is seeking regular bail in connection
with Kursela P.S. Case No. 03 of 2021, registered for the
offences punishable under Section 302 of the Indian Penal Code
and Section 27 of the Arms Act.

As per allegation, the deceased Jaylal Mahto, who is
brother of the informant, was working and assisting accused
Niro Mahto in Gobrahi Diyara. On 01.01.2021, at about 12:30
P.M., Niro Mahto informed the informant telephonically that
someone had fired shot at his brother. Later on, he sent the dead-
body of his brother by a boat.

The learned counsel for the petitioner has submitted



that the petitioner is not named in the FIR. None has seen the occurrence and there is no evidence against the petitioner at all. The informant, in his restatement in paragraph no. 33 of the case diary, has stated that co-accused Haro Mahto, on the assurance of not disclosing his name, has apprised the petitioner that on the eve of new year, a party was convened in which, Haro Mahto, Niro Mahto, Santosh Mahto, Subodh Mahto, Alakh Mahto and Prakash Mandal and the deceased were present. They consumed liquor. Later on, the informant came to know that the co-accused Niro Mahto, with whom the deceased was working and engaged in illegally occupying the lands of *Diyara*. Later on, his brother also started possessing the land illegally. The accused persons named in the FIR, including the petitioner, Niro Mahto, were not happy with the act of the deceased and they, on the pretext of consuming liquor, had killed his brother. He has submitted further that on similar footing Niro@ Nirankar Mahto and Alok Kumar @ Alok Mahto have been granted bail in Cr. Misc. No. 49954 of 2022 and Cr. Misc. No. 58295 of 2022 respectively. The petitioner is under custody since 25.06.2022 and is a person of clean antecedents.

On the other hand, Sri J.N. Thakur, the learned APP has opposed the prayer for bail.



Considering the above-mentioned facts and circumstances, let the petitioner above-named be released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Kursela P.S. Case No. 03 of 2021, subject to the following conditions:-

- (i) The petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court.
- (ii) If the petitioner is found involved in future in the similar type of offence, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioner and the learned court below will take decision in accordance with law.

(Nawneet Kumar Pandey, J)

Nirmal/Kundan

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