

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10255 of 2024

Arising Out of PS. Case No.-161 Year-2022 Thana- PHULWARIA District- Begusarai

Mukesh Yadav @ Mukesh Kumar Son of late Bhairo Yadav @ Ram Briksh
Yadav Resident of Village- Barauni-2, Ward No.08, P.S.-Teghra, Distt.
Begusarai, State-Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Akash Shankar, Advocate
For the State	:	Mr. Zainul Abedin, APP
For the Informant	:	Mr. Manoj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

6 17-05-2024 Heard Ld. Counsel for the Petitioner, Ld. Counsel for
the informant and Ld. APP for the State.

2. The Petitioner seeks bail in connection with
Phulwaria P.S. Case No. 161 of 2022, dated 22.09.2022,
registered for the offences punishable under Sections 302, 120B
and 201/34 of the Indian Penal Code.

3. As per the FIR, it is alleged that the Petitioner and
other co-accused persons killed the son of the informant and
threw his dead body in river.

4. Ld. counsel for the Petitioner submits that the
Petitioner is innocent and has falsely been implicated in this case.
He further submits that though the two co-accused viz., Jagdish
Singh @ Jagga and Chikku Kumar have been denied bail by a



Co-ordinate Bench of this Court as well as this Court, but his case is different from that of those co-accused. He further submits that the Petitioner had no enmity with the deceased. He further submits that the charge-sheet has been submitted under Section 364 of the Indian Penal Code and not under Section 302 of the Indian Penal Code, because the dead body of the deceased has not been recovered. Ld. Counsel for the Petitioner also submits that there is no requirement of custodial interrogation of the Petitioner and hence, he cannot be detained in jail.

5. He further submits that the petitioner has been languishing in jail since 25.08.2023.

6. It has also been stated in paragraph no. 3 of the bail petition that the petitioner has got no criminal antecedents.

7. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one.

8. However, Ld. counsel for the Informant and Ld. APP for the State vehemently oppose the prayer of the petitioner for bail submitting that the alleged offence is serious in nature and similarly situated two co-accused persons have already been denied bail by a Co-ordinate Bench of this Court as well as by this Court. They also submit that the petitioner is named in the FIR with allegation of direct involvement in the alleged offence.



The mother of the deceased had witnessed the alleged incident in which her son has been killed by the accused persons including the petitioner.

9. Considered the submissions of the parties and perused the material on record. It transpires that there is direct allegation of committing murder of the victim by the Accused persons including the petitioner and the allegation against them, including the petitioner, is exactly the same and those co-accused have been denied bail by a Co-ordinate Bench of this Court as well as by this Court earlier and Ld. Counsel for the Petitioner is not in a position to distinguish the case of the Petitioner.

10. Considering the nature of allegation and the materials collected during investigation in support of alleged offence, this Court is not persuaded to enlarge the petitioner on bail. Accordingly, the prayer for bail of the petitioner is hereby rejected.

(Jitendra Kumar, J.)

Shoaib/S.Ali-

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