

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10539 of 2024

Arising Out of PS. Case No.-272 Year-2020 Thana- ATRI District- Gaya

Mithlesh Rajbanshi @ Mithlesh Rajvanshi, aged about 36 years, Male, Son of Karu Rajbanshi, Resident of Village- Gehuni, P.S.- Atri, District- Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Krishna Deo Raj, Advocate
For the Opposite Party : Mr. Binod Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 10-07-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in Atri P.S. Case No. 272 of 2020, now corresponding to Sessions Trial No. 128 of 2021/73 of 2022 dated 10.08.2020 registered for the offences punishable under Sections 302/34 of the I.P.C.

3. Earlier on two occasions, the bail applications of the petitioner were rejected by the then Co-ordinate Bench of this Court vide Cr. Misc. No. 25352 of 2021 under order dated 07.12.2021 and vide Cr. Misc. No. 49705 of 2022 under order dated 10.05.2023 with a direction to the learned trial court to take up the trial peremptorily by keeping in mind mandate of Section 309 of the Cr.P.C., annexed as Annexure-1 series to the present bail application.



4. This is third application on behalf of the petitioner for grant of bail.

5. Vide order dated 16.04.2024, the present stage of the case was called for in connection with Atri P.S. Case No. 272 of 2020, now corresponding to Sessions Trial No. 128 of 2021/73 of 2022 from the court of learned A.D.J.-X, Gaya.

6. In compliance of the aforesaid order dated 16.04.2024, a Letter No. 32 dated 01.05.2024 has been received to this Court which has been sent by the learned Additional Sessions Judge-X, Gaya by which he has informed that the case is still pending for appearance of the accused Samta Devi and charge has not been framed against the petitioner till date.

7. As per the prosecution case, on 08.08.2020 at about 5.00 P.M., the co-villagers of the informant, namely, Karu Rajbanshi, Mithilesh Rajbanshi (petitioner), Suresh Rajbanshi and Samta Devi are alleged to have come with lathi, danda and iron rod, abused and started assaulting the informant and his family members due to land dispute and in course of that, the petitioner assaulted with iron rod on the head of the informant's father Ram Chandra Rajbanshi, due to which, he died during the course of his treatment in the hospital in Patna.

8. Learned counsel for the petitioner has submitted that



the petitioner is innocent and has falsely been implicated in the present case. It is submitted that the petitioner has not assaulted the deceased. It is further submitted that the occurrence took place on 08.08.2020 and the F.I.R. has been lodged on 10.08.2020 after a lapse of two days for which no explanation has been given by the prosecution. There is land dispute between the parties. The deceased is the uncle of the petitioner. As per the re-statement of the informant, the informant is not an eye witness to the alleged occurrence and there are contradictions between the F.I.R. and the re-statement of the informant. It is further submitted that there is no progress in trial till date and only the case has been committed to the court of sessions and the case is pending for framing of charge and there is no likelihood of trial being concluded in near future. It is submitted that from perusal of the postmortem report, it appears that the doctor has opined the cause of death is due to 'cranio cerebral injuries'. The petitioner has clean antecedent, as stated in paragraph no. 3 of the bail application. The petitioner is in custody since 04.09.2020.

9.Learned A.P.P. for the State has opposed the prayer for bail petition of the petitioner.

10. Considering the aforesaid facts and circumstances



of the case as well as the period of custody and there is no likelihood of trial being concluded in near future, let the above named petitioner, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-X, Gaya in connection with Atri P.S. Case No. 272 of 2020, now corresponding to Sessions Trial No. 128 of 2021/ 73 of 2022 with further conditions:-

(I) The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

II. If the petitioner is found involved in any other similar nature of case in future, the prosecution will have liberty to move for cancellation of his bail bonds.

11. The application stands allowed.

(Chandra Prakash Singh, J)

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