

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18150 of 2024

Arising Out of PS. Case No.-82 Year-2004 Thana- CHENARI District- Rohtas

Sri Niwas Yadav @ Niwas Singh @ Nivas Singh, (M), aged about 50 years,
Son of Late Mala Yadav @ Bhola Yadav, Resident of Village - Naraura, P.S. -
Chenari, District – Rohtas.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Sadanand Roy, Advocate
For the Opposite Party : Mrs. Sharda Kumari, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

7 20-08-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Sessions Trial Case No. 819 of 2023, arising out of Chenari P.S.
Case No. 82 of 2004 dated 26.11.2004 registered for the
offences punishable under Sections 302, 201, 120B/34 of the
I.P.C. and Section 27 of the Arms Act.

3. As per the prosecution case, on 24.11.2004 at about
6.00 P.M., the co-accused Umesh Singh and Akhilesh Singh
took the informant's son, namely, Upendra Singh, from his
house but he did not return. When the informant went at 9.00
P.M. to the *darwaza* of the co-accused Gobhardhan Singh to
inquire about his son, then the co-accused persons Gobhardhan



Singh, Baliram Singh, Barister Singh, Chandan Singh and Jai Prakash Singh were present there and the co-accused Gobhardhan Singh told that they went to one place. It is further alleged that the informant came back to his house and engaged on 25.11.2004 in harvesting of his field. Thereafter on 26.11.2004 at 7.00 A.M., the informant came to know from the labour who was engaged in harvesting of the field that one dead body was lying on the *Chabbar* on *Dakhshim Bash* in the village-*Chaukhara*. Thereafter, the informant alongwith his ten villagers went there and found his son as Upendra Singh who sustained firearms injury on his stomach. The informant suspected that the aforesaid accused persons in a conspiracy to each other and due to old enmity, committed murder of his son.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that neither the petitioner is named in the F.I.R. nor any suspicion has been raised against him. His name has surfaced in the present case on the basis of the confessional statement of the co-accused Prem Yadav who was arrested in Chenari P.S. Case No. 13 of 2005 lodged on 19.03.2005 registered for the offence punishable under Section 364A of the I.P.C. in which he told that the petitioner is involved



in the alleged offence. Except the confessional statement of the co-accused Prem Yadav, there is no other substantive evidence to suggest the participation of the petitioner in the alleged offence. However, the said co-accused Prem Yadav has been acquitted by the learned court below and the same has been affirmed by this Hon'ble Court. Thereafter, the petitioner has been remanded in the present case from Chenari P.S. Case No. 13 of 2005 on 12.07.2023. It is further submitted that after investigation, the charge sheet has been submitted in the present case and thereafter, charge has been framed on 20.12.2023 against the petitioner and fixed for evidence. It is further submitted that eight accused persons have been acquitted by the learned court below vide judgment dated 09.05.2014 which was assailed before this Court vide Cr. Appeal (DB) No. 567 of 2014 by the informant which was also dismissed on 18.07.2014 by Hon'ble Division Bench. The petitioner has one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 12.07.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submitted that the informant's son was murdered by gun shot injury and the petitioner deliberately absconded from the case and he has been



remanded in the present case on 04.07.2023 from Chenari P.S. Case No. 13 of 2005 and due to that reason the case could not be proceeded since last twenty years.

6. Vide order dated 15.03.2024, a status report be called for regarding the stage of the trial from the court of the learned 2nd Additional Sessions Judge, Rohtas at Sasaram in connection with Chenari P.S. Case No. 82 of 2004.

7. In compliance of the aforesaid order dated 15.03.2024, vide Letter No. 07 dated 01.04.2024 regarding the stage of the trial in connection with Sessions Trial Case No. 819 of 2023, arising out of Chenari P.S. Case No. 82 of 2004 has been received from the learned 2nd Additional Sessions judge, Rohtas at Sasaram. It has been reported by the learned court below that on 20.12.2023 charges were framed against the petitioner and no any witnesses has been examined on behalf of the prosecution till today out of total fourteen charge-sheeted witnesses and the case is fixed on 05.04.2024 for prosecution evidence and summons have already been issued for the next date of hearing i.e., for 05.04.2024.

8. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner, above named, 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 learned 2nd Additional Sessions Judge, Rohtas at Sasaram in connection with Sessions Trial Case No. 819 of 2023, arising out of Chenari P.S. Case No. 82 of 2004 with further condition:-

(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.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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