

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18270 of 2024

Arising Out of PS. Case No.-27 Year-2021 Thana- SARSI District- Purnia

Upendra Sah @ Beltor Sah Son of Late Rabbi Sah Resident of Parasmani,
P.S.- Sarsi, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Kumar

For the Opposite Party/s : Mr.Madhuri Lata

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 05-07-2024 Heard learned counsel for the petitioner and
learned APP for the state.

2. The instance application for regular bail has been
filed by the petitioner in connection with Sarsi P.S. Case No.
27 of 2021 instituted for the offence u/s 302 and 34 of the
Indian Penal Code.

3. Earlier the application for regular bail of the
petitioner was dismissed as withdrawn vide order dated
27.04.2023 passed in Cr. Misc. No. 69414 of 2022 on the
basis of trial Court report dated 19.04.2023 which suggested
that trial would be concluded within three months and trial
Court was directed to conclude the trial within three months
failing which, the petitioner would be at liberty to renew his
prayer for bail.



4. As per prosecution case, petitioner assaulted the informant's mother by means of *Axe* due to which she sustained injuries and succumbed to injuries. Other co-accused persons also assaulted the informant's mother.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case due to previous enmity. Both parties are next door neighbour. It is further submitted from para-III of petition's grounds that from perusal of the case diary in para-8, it appears that the petitioner was arrested with an *axe* which was alleged to be used and seized immediately after the alleged occurrence but the alleged seized *axe* contained no blood nor there was any blood mark at the place of occurrence which creates doubt about the authenticity of the prosecution case. Postmortem report also does not in consonance with the prosecution version. Moreover, the petitioner is languishing in judicial custody since 14.03.2021.

6. Learned APP appearing for the state has opposed the prayer of regular bail.

7. In pursuance to the direction of this Court, a report with regard to the present stage of trial was called for



on 13.03.2024 and the same has been received by which, it appears that the case is fixed for recording the prosecution evidence.

8. It is submitted by learned counsel for the petitioner that there is no hope to conclude the trial in near future.

9. Having heard learned counsel for the parties and considering the facts and circumstances of the case as well as custody of the petitioner, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Sarsi P.S. Case No. 27 of 2021 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge, XIV, Purnea with following conditions:-

(i) Petitioner shall co-operate in the trial and shall be present on each and every fixed date and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(ii) If the petitioner tampers with the evidence or threatens the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.



(iii) In case, the petitioner repeats offence of similar nature after enlargement on bail, his bail-bonds will be cancelled by the Court below.

(Sunil Kumar Panwar, J)

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