

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39138 of 2024

Arising Out of PS. Case No.-227 Year-2022 Thana- GORIAKOTHI District- Siwan

Sumit Mishra Son of Kameshwar Mishra Resident of Village - Khagni, P.S.-
Goreakothi, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary

For the Opposite Party/s : Mr.Rajendra Prasad Nat

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

ORAL ORDER

2 23-08-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in connection with Goreakothi P.S. Case No. 227 of 2022 dated 23.10.2022 registered for the offences punishable under Sections 341, 323, 324, 307, 302, 504 and 506/34 of the Indian Penal Code.

3. As per the prosecution case, on 23.10.2022 at about 20.00 O'clock, when the informant was returning to his house from Mustafabad Market and as soon as, he reached near the house of Lalji Mishra, heard some hullah, upon which, he went there and saw that the accused persons Sumit Mishra, Lalji Mishra, Lav Mishra, Maheshwar Mishra, Ashok Mishra, Alka



Devi, Guddi Devi, Ranjit Mishra and Rajbalam Mishra were abusing and assaulting the informant's brother, Santosh Mishra and father Kameshwar Mishra with Lathi, Bhala, sword, farsa and the co-accused Lalji Mishra, Maheshwar Mishra and Ashok Mishra ordered to kill them. It is further alleged that the petitioner Sumit Mishra inflicted blow of spear on the chest of the informant's brother, Santosh Mishra, as a result of which, he fell on the ground and all the accused persons assaulted the informant's father by means of sword. It is further alleged that Santosh Mishra died due to blow of spear.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. There is general and omnibus allegation against the petitioner. The petitioner is the full brother of the deceased. There is no repetition of blow against the petitioner. The informant's wife had earlier filed a complaint case No. 1634 of 2021 on 15.12.2023 before the court of the learned Chief Judicial Magistrate, Siwan in which she made accused to the present informant and his father. The petitioner has one criminal antecedent as stated in para 3 of the bail petition.

5. Learned A.P.P. for the State has vehemently opposed the anticipatory bail petition of the petitioner and stated



that earlier the mother of the petitioner also lodged a case against the present petitioner and the other co-accused persons. It is further stated that there is specific allegation against the petitioner of assaulting his own brother with spear on his chest due to that he died and the postmortem report also corroborates the same.

6. Considering the aforesaid facts and circumstances of the case as well as the specific and heinous nature of allegation against the petitioner, I am of the view that no case for grant of anticipatory bail is made out and the same is rejected with direction to the petitioner to surrender before the Court below concerned within six weeks from the date of this order and the prayer for regular bail, the learned Court below may consider his prayer for regular bail in accordance with law and on its own merits without being prejudiced by this order.

7. The application stands rejected.

(Chandra Prakash Singh, J)

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