

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39207 of 2024

Arising Out of PS. Case No.-40 Year-2022 Thana- SULTANGANJ District- Patna

Anil Mahto, son of Late Ram Jivan Mahto, Village- Shivpur Tikeya Toli,
Chaitola, P.S.- Sultanganj, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 46480 of 2024

Arising Out of PS. Case No.-40 Year-2022 Thana- SULTANGANJ District- Patna

Suresh Mahto @ Suresh Kumar, Son of Ramjivan Mahto, R/O Tikiya Toli,
Chai Tola, P.S.- Sultanganj, Dist.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 39207 of 2024)
For the Petitioner/s : Mr. Tej Maharaj, Adv.
For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem, APP
(In CRIMINAL MISCELLANEOUS No. 46480 of 2024)
For the Petitioner/s : Mr. Ajay Mishra, Adv.
For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 13-09-2024 As both the criminal miscellaneous petitions have

arisen out of same P.S. case, hence they are being heard together

and disposed of by a common order.

2. Heard learned counsels for the petitioners and the
learned APPs for the State.

3. Petitioners seek regular bail in connection with



Sessions Trial No. 1429/2022 arising out of Sultanganj P.S. Case No. 40/2022 dated 08.02.2022 registered for the offences punishable under sections 341, 323, 302 and 338 read with section 34 of the Indian Penal Code.

4. Mr. Ajay Mishra, learned counsel appearing for the petitioner Suresh Mahto @ Suresh Kumar submits that the matter relates to murder of a lady, who happened to be the sister-in-law of the petitioner, owing to property dispute, however, the witnesses examined by the police during investigation are hearsay witnesses and they did not see the commission of the occurrence so the entire story as alleged in the FIR is concocted and fabricated due to admitted partition dispute running in between the deceased and the petitioner. It is further submitted that though it is alleged that the deceased's head was thrashed by means of bricks by the petitioner with the help of co-accused persons but in fact, the deceased had fell down on bricks due to which she sustained head injuries resulting in her death and against the petitioner, the cognizance has been taken and the charges have been framed upon the petitioner on 11.04.2023, however, no any witness has been examined by the prosecution till date. Learned counsel further submits that co-accused persons namely Manju Devi and Kiran



Devi have been granted bail by this bench vide orders passed in Cr. Misc. Nos. 10995/2024 and 10260/2024 respectively, the petitioner surrendered before the trial court on 08.03.2022 and since then, he is in judicial custody and the petitioner has fair and clean antecedent.

5. Mr. Tej Maharaj, learned counsel for the petitioner Anil Mahto adopts the above submissions as mentioned by learned counsel for the petitioner Suresh Mahto @ Suresh Kumar. He further submits that the petitioner has been languishing in jail since 14.02.2022 and he is a rickshaw puller by profession and also has fair and clean antecedent.

6. Learned APP appearing for the State has opposed the bail prayer.

7. Considering the facts and circumstances of this case as well as above submissions and mainly the facts that a partition dispute running in between both the parties at the relevant time of the alleged occurrence is said to have led the commission of the alleged occurrence and the report sent by the trial court regarding status of the trial of the petitioners goes to show that the charges have been framed upon the petitioners on 11.04.2023 and thereafter, even after the lapse of more than one year, no prosecution witness has turned up before the trial court



which shows lingering attitude of the prosecution and further taking into account the privilege of bail having been granted to two co-accused Manju Devi and Kiran Devi by this Court and also, the custody period of the petitioners coupled with their fair and clean antecedent, in my opinion, it is a fit case for bail to the petitioners. Accordingly, let both the petitioners named-above be released on bail on furnishing bail bonds of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Sessions Trial No. 1429/2022 arising out of Sultanganj P.S. Case No. 40/2022.

(Shailendra Singh, J)

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