

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64990 of 2024

Arising Out of PS. Case No.-78 Year-2023 Thana- PATEPUR District- Vaishali

Vikash Kumar, aged about 26 years, Gender- Male, son of Dayanand Rai,
resident of Village- Bishanpur Kowahi, P.S.- Patepur, Dist.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bhola Prasad, Advocate Mr. Ujjwal Kumar, Advocate
For the State	:	Mr. Bharat Lal, APP
For the Informant	:	Mr. Surendra Prasad Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

3 04-10-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned Additional Public
Prosecutor for the State.

2. The petitioner seeks bail in connection with
Sessions Trial No.527 of 2024 arising out of Patepur PS Case
No.78 of 2023 dated 09.04.2023, instituted for the offence
punishable under Sections 302/34 of the Indian Penal Code.

3. The prosecution case, in short, is that son of the
informant used to work at the clinic of Dr. Vinod Rai. On the
alleged date of occurrence, when he was returning home from
the clinic, then at about 100 yards ahead from the hut of Jamun
Mahto, the petitioner along with other accused persons got him
down from the motorcycle due to old enmity and the petitioner



is alleged to have assaulted the son of the informant with iron rod. Other accused persons also assaulted the son of the informant iron rod and *lathi-danda* due to which he sustained injury. On hue and cry, the informant and his family members reached at the spot and then all the accused persons fled away. It is further alleged that the son of the informant told to his family members that the petitioner assaulted him with iron rod. He was admitted in the hospital, but he died on 09.04.2023 during course of treatment.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is further submitted that the occurrence took place at 10.30 PM on 08.04.2023, but the FIR has been lodged on 09.04.2023 at 3.30 PM. It is also submitted that the informant is not an eye witness to the occurrence and after the death of the deceased at 8.00 AM on 09.04.2023, the present case has been lodged with concocted story. It is submitted that admittedly, there is previous enmity between the parties. Further submission is that co-accused Rahul Rai @ Rahul Kumar has been granted bail by this Court vide order dated 30.08.2023 passed in Cr. Misc. No.55264 of 2023. The petitioner is in custody since 09.04.2023 i.e., soon after the lodging of the FIR and one



criminal case is pending against the petitioner.

5. Learned APP has opposed the prayer for bail.

6. Learned counsel for the informant has also opposed the prayer for bail and submitted that there is direct allegation against the petitioner of assaulting the deceased with iron rod and the postmortem report also corroborates the injury on the person of the deceased. Learned counsel further submits that wife of the deceased has been examined and she has supported the case of the prosecution but she has disclosed that police told her that the petitioner assaulted the deceased with iron rod.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Additional Sessions Judge-III, Vaishali at Hajipur, in Sessions Trial No.527 of 2024 arising out of Patepur PS Case No.78 of 2023, subject to the conditions (i) that the petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below, (ii) that one of the bailors will be his own blood relation, preferably



father, mother, brother, sister and or his wife, (iii) that the bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse, and (iv) that if the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

7. The application stands allowed.

(Khatim Reza, J)

J. Alam/-

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