

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74942 of 2024

Arising Out of PS. Case No.-249 Year-2022 Thana- SIMRI District- Darbhanga

Md. Chhote @ Md. Chote S/O Md Mobeen @ Md Musha R/O Village-
Sobhan Shankarpur, P.S- Simri, Distt.- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Vaishnavi Singh, Adv.

For the Opposite Party/s : Mr.Uday Pratap Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 06-12-2024 Heard learned counsel for the petitioner, learned APP
for the State.

2. The petitioner seeks bail in Simri P.S. Case No. 249
of 2022, instituted for the offences punishable under Sections
302, 120(B), 34 of the Indian Penal Code, Section 25(1-b)a, 27
and 35 of the Arms Act.

3. The prosecution case, in short, is that, the dead
body of informant's husband was found on the eastern side of
village near bamboo clump with mark of violence on his body.
It is alleged that one of the co-accused took her husband on the
pretext of showing a land from where her husband did not
return. It is further alleged that as her husband had paid Rs. 16
lacs in advance to the co-accused Md. Jawed, he was killed due



to non-execution of sale deed by the co-accused Md. Jawed.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. She submits that the Informant is not the witness of any part of the alleged occurrence and, merely on suspicion, the Informant has falsely implicated the petitioner in this case. She further submits that the written report has been allegedly lodged after recovery of the dead body whereas the deceased was found missing on 07.12.2022. The name of the petitioner has come in this case on the basis of the confessional statement of the arrested co-accused. Learned counsel for the petitioner submits that on the basis of the confessional statement of co-accused Md. Javed, Md. Chhote, Md. Firoz, the police has recovered the pistol and a rod. There is no direct or specific allegation of any overt act against the petitioner rather the same is general and omnibus in nature. Learned counsel for the petitioner further submits that there are two postmortem reports in this case. The first postmortem was conducted on 08.12.2022 i.e. on the date of recovery of dead body whereas the second postmortem was conducted on 23.12.2022 which creates doubt in the prosecution case. The petitioner has no concern with the alleged occurrence.



The petitioner has no criminal antecedent and is languishing in judicial custody since 10.11.2022 without any rhymes or reason. Learned counsel for the petitioner further submits that till date, only five witnesses have been examined on behalf of the prosecution out of 13 charge-sheet witnesses and there is no likelihood of the trial concluding in the near future.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the petitioner is named in the F.I.R. and the allegation alleged against him is of participating in the conspiracy of murder of the deceased. The petitioner in his confessional statement contained in Para-63 of the case diary has also confessed his guilt of being involved in the alleged occurrence. He further submits that on the disclosures made by the petitioner and the co-accused persons, the police has recovered the pistol used in the occurrence. From para-123 of the case diary, there is CDR of mobile of the petitioner from which it appears that he connected 13 times with other accused persons when the offence was committed. There is specific allegation against the petitioner of assaulting the deceased with rod from the back. The offence alleged against the petitioner is serious in nature and, hence, he does not deserve bail.



6. Learned counsel for the State again submits that the prayer for bail of the co-accused namely Md. Chhote @ Md. Chote, Md. Jawed and Md. Firoz @ Firoz has already been rejected by this Court vide common order dated 23.02.2024 passed in Cr. Misc. Nos. 33848 of 2023, 27265 of 2023 and 39261 of 2023.

7. Pursuant to the order of this Court dated 24.10.2024, the learned court below has sent its report dated 11.11.2024, stating therein that there are total thirteen charge-sheeted witnesses including the doctor and the investigating officer and out of them, nine witnesses have already been examined. It has also been stated that it would take six more months to conclude the trial.

8. Having heard rival contention of both the parties and considering the nature and gravity of the offence as also the fact that nine witnesses have already been examined, this Court is not inclined to grant bail to the petitioner at this stage.

9. Accordingly, the prayer for bail of the petitioner, above named, is rejected with a direction to the court below to expedite the trial and conclude the same expeditiously.

10. If the trial is not concluded within a period of six months from today, liberty is given to the petitioner to renew his



prayer for bail before the court below which will be decided on
its own merit without being prejudiced by this order.

(Rudra Prakash Mishra, J)

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