

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31091 of 2025

Arising Out of PS. Case No.-246 Year-2024 Thana- BENIPATTI District- Madhubani

=====

Asharfi Mandal @ Asarfi Chaupal, S/o Bhagi Chaupal R/o Village- Uchaith
Durga Asthan, P.S.-Benipatti, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Md. Soban Asghar, Adv.
For the Informant	:	Mr. Ashok Kumar Jha, Advocate
		Mr. Ankit Raj, Adv
For the State	:	Mr. Sanjay Kumar Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 3 13-08-2025 1. Heard Mr. Md. Soban Asghar, learned counsel
for the petitioner, Mr. Ashok Kumar Jha, learned counsel for the
Informant and Mr. Sanjay Kumar Singh, learned APP for the
State.
2. The petitioner seeks regular bail in connection with
Benipatti P. S. Case No. 246 of 2024, dated 22.10.2024
registered for the offences punishable under Sections 103(1),
61(2) and 3(5) of the B.N.S. and Sections 25(1-B)(a), 26, 27 and
35 of the Arms Act.
3. The main submissions advanced by the petitioner's
counsel are that the petitioner is not named in the FIR, in the
FIR, three accused persons have been named and details of two
mobile numbers have been given and their holders have been



made accused without disclosing their names, the petitioner has no any connection with the said mobile numbers and accordingly, is not named in the FIR, though the bail prayer of co-accused Arjun Kumar Yadav has been rejected by a co-ordinate Bench of this court but his case stands on a different footing from that of the petitioner as mobile number of the said co-accused has been mentioned in the FIR and the holder of the same has been made an accused in the accused column. It is further submitted that the petitioner has been dragged in this matter mainly on the basis of his conversation with the deceased over mobile phone and admittedly, the deceased had conversation through mobile phone with several persons, the details of whom have been given by the prosecution, so, the basis for making the petitioner an accused in the present case is simply the said mobile conversation and the prosecution has not revealed any technical evidence to show the petitioner's location with the deceased as well as at or near the place of occurrence during the relevant time of the alleged incident. It is lastly submitted that the petitioner has been languishing in jail since 04.01.2025 and the investigation against him has been completed, though he has one criminal antecedent relating to the Excise Act in which he is already on bail.



4. On the other hand, Mr. Ashok Kumar Jha, learned counsel appearing for the informant, has vehemently opposed the bail prayer of the petitioner and submits that the deceased was murdered in furtherance of a conspiracy hatched by several persons including the petitioner who were involved in smuggling of excise materials which was being opposed by the deceased. It is further submitted that the bail prayer of co-accused Arjun Kumar Yadav has been rejected by a co-ordinate Bench of this court.

5. Mr. Sanjay Kumar Singh, learned APP for the State, has submitted that the petitioner himself indulged in illicit activity of liquor smuggling and on the basis of his call to the deceased, he was investigated and relevant evidences have been collected by the I.O. with regard to the said conversation. Learned APP has referred to several paragraphs in the case diary in support of his submission. It is further submits that the petitioner confessed before the police.

6. Heard both the sides and perused the FIR and the case diary of this case. The petitioner is not named in the FIR, regarding his involvement in the alleged crime of murder, he has been suspected by the police mainly on the basis of his conversation with the deceased and the co-accused persons and



at the same time, the deceased conversed with several co-accused persons the details of which are available in the case diary and the prosecution has not pointed out any material to show the petitioner's location at or near the place of occurrence with the deceased in his last moments on the basis of the said technical evidence, so, considering these aspects, the petitioner's case cannot be treated as similar to that of the co-accused Arjun Kumar Yadav, whose prayer has been rejected by a co-ordinate Bench of this court and also coupled with the petitioner's custody period of more than 7 months and the fact that the investigation against him has been completed, in my opinion, the petitioner deserves to the relief of bail. Accordingly, let the petitioner named-above, be enlarged on bail in connection with Benipatti P. S. Case No. 246 of 2024 on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned.

(Shailendra Singh, J)

Rajiv/-

U		T	
---	--	---	--

