

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.44757 of 2025**

Arising Out of PS. Case No.-492 Year-2024 Thana- KONCH District- Gaya

Kapil Kumar, Son of Sanjay Chaudhari @ Sanjay Chaudhary, Resident of  
village - Manna Bigha, P.S.- Konch, District - Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Petitioner/s | : | Mr. Anil Kumar Saxena, Advocate |
| For the State        | : | Mr. Manoj Kumar, APP            |
| For the Informant    | : | Mr. Sailesh Kumar, Advocate     |

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

2      02-09-2025                      Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection with Konch P.S. Case No.492 of 2024 registered for the offences punishable under Sections 191(2), 190, 126(2), 115(2), 109, 125, 352 but, later on, Section 103 of the Bhartiya Nyaya Sanhita, 2023 (for short 'B.N.S.') was added in the FIR.

3. The accused/petitioner is not named in the FIR and is in custody since 21.11.2024.

4. As per FIR, named accused persons along with 10-15 unknown accused assaulted the deceased Kundan Kumar while he was returning with informant on 18.11.2024



from Konch Bazar at about 7.00 P.M.

5. It is submitted by learned counsel appearing for the petitioner that the informant claimed himself as an eye-witness of the occurrence but, he could not name the petitioner as accused while lodging the FIR. It is submitted that the informant named this petitioner while recording his re-statement. It is also submitted that the FIR in issue was lodged with delay of 24 hours. Arguing further, learned counsel submitted that the petitioner is the full brother of named co-accused Deepak Kumar @ Ravi and for said reason only, he was implicated with present case. While concluding argument, it is submitted that investigation of this case is already completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence. The petitioner claimed clean antecedent.

6. Learned APP duly assisted by Mr. Sailesh Kumar, learned counsel appearing for the informant while opposing the prayer of bail submitted that not naming the petitioner in FIR may not be a ground to disbelieve the allegation as raised against him for the reason that several eye-witnesses during



the course of investigation named this petitioner as to involve in present crime in question and specifically stated while recording their statement under Section 180 of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS') that he along with other co-accused persons assaulted the deceased with hard and blunt substance like, *lathi*, rod etc. caused severe head and bodily injuries, which proved fatal. It is submitted that even the informant named this petitioner while recording his re-statement. It is pointed out that the injury found upon deceased while conducting postmortem appears *prima facie* in full corroboration with the manner of assault and weapons as alleged to cause those injuries.

7. In view of aforesaid factual submissions and by taking note of fact as petitioner actively involved in assaulting the deceased namely, Kundan Kumar along with other named and unknown co-accused persons, which was duly supported during investigation by several eye-witnesses and further, the injuries and postmortem report ascertaining cause of death also *prima facie* supports the manner of assault, accordingly, the prayer of bail of above-named petitioner stands rejected



herewith, for the present.

8. However, considering the custody period of the petitioner, learned trial court is directed to conclude the trial of the case, preferably within a period of nine months, failing which the petitioner shall be at liberty to renew his prayer for bail, if so advised.

**(Chandra Shekhar Jha, J.)**

Sanjeet/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

