

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67770 of 2024**

Arising Out of PS. Case No.-427 Year-2023 Thana- BHAGWANPUR HAT District- Siwan

Om Prakash Kumar, aged about 48 years, Male, S/O Awadh Kishor Prasad,
R/O Village- Arajai Nagwan, P.O- Nagwan Chorauli, P.S- Bhagwanpur Hatt,
Distt.- Siwan, Bihar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Krishna Pd. Singh, Sr. Advocate, Mr. Akshay
Lal Pandit, Advocate, Mr. Arvind Kumar, Advocate
and Mr. Rajesh Kumar, Advocate.
For the Opposite Party : Mr. Ram Priya Sharan Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

5 19-04-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Bhagawanpur Hat P.S. Case No. 427 of 2023 dated 11.12.2023
registered for the offences punishable under Sections 302, 324,
120B read with Section 34 of the I.P.C.

3. As per the prosecution case, on 11.12.2023, when
the informant woke up at about 5.00 A.M., he did not see his
younger brother Avinash Kumar and no member of the family



told anything about him. Then the nearby people were interrogated, but he could not be find out. After that he tried to contact his brother Avinash Kumar on Mobile Nos. 8809103506 and 8873657695, but his mobile was switched-off. While searching around the village, when they went towards the canal dam, a boy who was coming after call of nature said that dead body of a boy was lying in the Mango Orchard of Jawahir Giri. When the informant and his family members went to the said garden, they saw that the informant's younger brother Avinash Kumar was lying soaked in blood, whose neck and hands were cut and his head was injured, and he was dead. It is further alleged that for some days, Avinash Kumar was receiving regular calls from a girl on his mobile, call had also been received on the night of 10.12.2023, she used to call the informant's brother for meeting alone. It is further alleged that it seems that the same girl, as part of a conspiracy, called his brother and with the help of other unknown persons, killed him with a sharp weapon.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the petitioner is not named in the F.I.R. and he has no concern with the alleged offence. No



incriminating article has been recovered from his possession. It is further submitted that during the course of investigation, the petitioner was arrested merely on suspicion and without evidence. He neither confessed his crime nor the *Axe* used in the alleged offence was recovered from his house. The petitioner is the co-villager of the informant and when he was coming to the village from the side of the canal dam after call of nature, he told the informant and other villagers and made noise that the dead body of a boy was laying down in the Mango Orchard of Jawahir Giri thereafter the informant alongwith his family members and many people of the village went there and saw that the informant's younger brother Avinash Kumar was lying soaked in blood and was in dead condition. There is no eye witness to the alleged offence. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 12.12.2023.

5. Vide order dated 17.12.2024, a report with respect to present stage of the case was called for. In compliance thereof, the learned Principal Sessions Judge, Siwan vide its Letter No. 195 dated 27.02.2025, has been sent a report with regard to the present stage of the case in which it has been reported that the present case is at the stage of prosecution



evidence. There are eight charge sheeted witnesses and out of them, six witnesses including the doctor has been examined and cross examined so far and the rest two witnesses including I.O. are to be examined and the trial is expected to be concluded within six months, if prosecution side and defence side co-operate in the trial. The next date of this case was fixed for 11.03.2025.

6. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and has further submitted that during investigation, the petitioner was arrested and he confessed his guilt and *Axe* used in the offence is recovered from his house and further from perusal of paragraph no. 12 of the case diary, it appears that the call details tally with the petitioner and the C.D.R. are also corroborates his involvement. It is further submitted that all the witnesses have supported the prosecution case and from perusal of paragraph no. 53 of the case diary, it appears that the postmortem report also corroborates the offence.

7. Considering the aforesaid facts and circumstances of the case and finding substance in the contention of the learned A.P.P. for the State, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with



Bhagawanpur P.S. Case No. 427 of 2023, pending in the court
of learned District and Sessions Judge, Siwan.

8. The application stands rejected.

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(Chandra Prakash Singh, J)

