

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77245 of 2024

Arising Out of PS. Case No.-702 Year-2023 Thana- GARKHA District- Saran

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Bikram Rai @ Vikram Rai, Son of Late Mithu Rai, R/O Village- Jalal Basant,
P.S.- Garkha, District- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Dewendra Narayan Singh, Advocate
For the State	:	Mr.Manoj Kumar, APP
For the Informant	:	Dr. Rajesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 22-01-2025 Heard learned counsel for the petitioner, learned
APP for the State and the learned counsel for the informant.

2. In the present case, the petitioner seeks bail in connection with Sessions Trial No. 367 of 2024, arising out of Garkha P.S. Case No. 702 of 2023, registered for the alleged offence under Sections 341, 323, 325, 302 and 34 of the Indian Penal Code.

3. As per prosecution case, the petitioner and other co-accused persons, in the background of earlier dispute, dragged out the husband of the informant and the petitioner put him down and hit him on his head with a wooden mallet. The informant was also assaulted. The husband of the informant was treated by the village doctor and he subsequently died after two



days of the occurrence.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. The present case has been lodged in the background of land dispute which arose at the time of partition in the family. As a matter of fact, the husband of the informant and the petitioner are full brothers and other co-accused persons are the family members of the informant. The husband of the informant died due to heart ailment and his death has been given the colour of murder. The post mortem report shows no external injury and the cause of death has been stated to be sudden cardiac arrest leading to cardio respiratory failure. Therefore, there is no corroborative injury or not even a single injury on the person of the deceased as alleged in the FIR. The police submitted charge sheet under Sections 304/34 IPC whereas the learned Magistrate, differing from the police view, took cognizance under Sections 302/34 IPC. The petitioner is in custody since 02.12.2023 and charge sheet has been submitted. The petitioner is having no criminal antecedent.

5. Learned APP as well as learned counsel appearing on behalf of the informant vehemently oppose the submission



made on behalf of the petitioner. The learned counsel for the informant submits that there is specific allegation of assault against this petitioner in the FIR. The learned counsel further submits that trial has been proceeding and two witnesses have been examined in this case.

6. Having regard to the facts and circumstances of the case and submissions made on behalf of the parties and considering the post mortem report showing death being caused due to cardiac arrest and also absence of injury as alleged in the FIR and further considering the period of custody of the petitioner, submission of charge sheet and his clean antecedent, the petitioner, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XII, Saran at Chapra, in connection with Sessions Trial No. 367 of 2024, arising out of Garkha P.S. Case No. 702 of 2023, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

(i) One of the bailors will be a close relative of the petitioner.

(ii) The petitioner will remain



present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

V.K.Pandey/-

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