

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79629 of 2024

Arising Out of PS. Case No.-171 Year-2024 Thana- KHARIK District- Bhagalpur

Nityanand Yadav Son of Lakho Yadav R/o Village - Bagdi, P.S.- Kharik,
District - Bhagalpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Harsh Singh, Advocate

For the Opposite Party/s : Mr.Ahmad Ali, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 22-01-2025 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State.

2. Petitioner seeks bail in connection with Kharik

P.S. Case No. 171 of 2024 registered for the offences under

Sections 103(2) of Bhartiya Nayay Sanhita (in short

'B.N.S.').

3. The petitioner is named in the First Information

Report and is in custody since 29.07.2024.

4. Allegation against the petitioner is to commit

murder of husband of the informant along with other co-

accused persons/family members by assaulting with lathi,

pistol, rod etc. Occurrence is alleged to be arisen out of

previous enmity where both parties are said to be agnates.

5. It is submitted by learned counsel appearing on



behalf of the petitioner that merely as more than five persons appears involved in the present occurrence, the case was lodged under Section 103(2) of the B.N.S., otherwise, there was no occasion to lodge the present case against petitioner under aforesaid provision of law as occurrence not alleged to be committed by petitioner and other accused persons acting in concert on the ground of race, caste or community, place of birth, language, personal relief or any other similar ground.

6. It is pointed out that it is basically a family dispute where the occurrence took place due to previous enmity. It is submitted that the allegation as to cause physical assault is appearing very much general and omnibus against this petitioner. It is submitted that having pistol in hand, no firing was alleged to be made by this petitioner or by any of the co-accused persons, which *prima-facie* negates intention to cause death on its face. While concluding his argument, it is submitted that investigation of this case is completed and there is no chance of tampering with evidence and, moreover, petitioner is a man of clean antecedent.

7. Learned A.P.P. for the State has opposed the



prayer for bail of the petitioner.

8. Considering the facts and circumstances as mentioned above and by taking note of the fact as allegation *qua* physical assault appears very much general and omnibus against this petitioner, where none of the conditions appear fulfilled *prima-facie* to make out a case under Section 103(2) of the B.N.S., coupled with the fact that petitioner is in custody since 29.07.2024, where investigation of this case is already completed, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-1, Naugachiya, District - Bhagalpur, in connection with Kharik P.S. Case No. 171 of 2024, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nyaya Suraksha Sanhita (in short “B.N.S.S.”).

(Chandra Shekhar Jha, J.)

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