

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82429 of 2024

Arising Out of PS. Case No.-190 Year-2023 Thana- MANSAHI District- Katihar

Nitesh Kumar Yadav @ Nitish Kumar Yadav Son of Mr. Bimal yadav
Resident of Village - Gorgama, P.S. - Mansahi, District - Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Vaishnavi Singh, Adv.

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 19-02-2025 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with
Mansahi P.S. Case No. 190 of 2023 instituted for the offences
under Sections 341, 323, 307, 504, 506, 34 and subsequently
added Section 302 of the Indian Penal Code.

3. As per prosecution case, the accusation against the
petitioner is of catching hold the victim whereas other accused
persons assaulted him with rod due to which he succumbed to
death.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and he has been falsely implicated in the
present case with false and frivolous allegations. The petitioner



has not committed any offence as alleged in the F.I.R. There is a case and counter case. Learned counsel for the petitioner submits that due to the altercation took place on 30.11.2023 the mother of the petitioner had filed a case bearing Mansahi P.S. Case No. 189 of 2023. She further submits that the occurrence allegedly took place on 30.11.2023 at around 07.30 AM but, the written report was submitted on 30.11.2023 at 10.50 PM i.e. at a belated stage which goes to show that the present case has been lodged after due deliberation and consultation and to save their skin from the case lodged by the accused side. She further submits that the F.I.R. was registered on 30.11.2023 but, the same was sent to the court on 02.12.2023 and no reason has been assigned for such inordinate delay. The statements of the eye-witnesses contradicts the allegation made in the F.I.R. There is specific or direct allegation of any overt act against the petitioner rather the same is general and omnibus in nature and the specific allegation of assault is over co-accused Sujit Kumar of assaulting the son of the Informant. No specific weapon has also been specifically attributed to the petitioner. The co-accused Bimal Yadav has also been granted privilege of anticipatory bail by the court below. The injury caused to the Informant is simple in nature. The wife of the Informant has



also not made any allegation of any overt act against the petitioner. The petitioner has no criminal antecedent and is languishing in judicial custody since 05.04.2024 without any rhymes or reason.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the offence alleged against the petitioner is serious in nature. The postmortem report supports the prosecution case. The petitioner is named in the F.I.R. and, hence, he does not deserve bail.

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case, the period of custody of the petitioner and the petitioner having no criminal antecedent, let the petitioner, abovenamed, 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 Court below/concerned Court in connection with Mansahi P.S. Case No. 190 of 2023, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall



be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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