

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67437 of 2025

Arising Out of PS. Case No.-246 Year-2024 Thana- BENIPATTI District- Madhubani

Abhishek Kumar Mishra @ Abhishek Mishra@ Happy Mishra S/o Ratish Mishra R/o vill - Dhanauja, P.S.- Benipatti, Distt.- Madhubani, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
For the Petitioner/s : Mr. Jagnnath Singh, Advocate
For the Opposite Party/s : Mr. Aditya Narayan Singh.1, APP
For the Informant : Mr. Ankit Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 02-02-2026 Heard learned counsel for the petitioner, learned APP for the State, learned counsel for the informant and perused the case diary.

2. The petitioner seeks bail in connection with Benipatti P.S. Case No. 246 of 2024, instituted for the offences punishable under Sections 103(1), 61(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023, read with Sections 25(1-B)(a), 26, 27 and 35 of the Arms Act.

3. The prosecution case, in short, is that on the intervening night of 20.10.2024, the deceased was lured out of his house on the pretext of telephonic calls and was thereafter



found shot near a grocery shop at village Dhanauja. The deceased was immediately taken to S.D. Hospital, where he was declared dead. It is further alleged that the said murder was committed in furtherance of a pre-planned criminal conspiracy by the accused persons.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. No incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel for the petitioner also submitted that no specific allegation has been attributed against the petitioner rather the same is general and omnibus in nature. It is next submitted that the petitioner has been arrested only on the basis of suspicion. The petitioner is in custody since 23.04.2025 and has got two criminal antecedents. Learned counsel for the petitioner further submitted that other co-accused has been granted regular bail by this Court vide order dated 09.01.2026 passed in Cr. Misc. No. 86410 of 2025.

5. Learned APP for the State and learned counsel for the informant have vehemently opposed the prayer for grant of bail to the petitioner. It is also submitted that witnesses have supported the prosecution case at paragraph nos. 15 and 16 of



the case diary. Confessional statement of co-accused Krishna Kumar has been recorded at paragraph no. 110 of the case diary wherein he had admitted the involvement of the petitioner in the alleged crime. Learned counsel for the informant submitted that the trial is in progress and one witness has already been examined in this case. Learned counsel for the informant relied upon a decision of the Hon'ble Apex Court reported in **2024 SCC OnLine SC 3539 (X. vs. State of Rajasthan & Anr.)**, wherein in paragraph no. 14, the Hon'ble Apex Court has held as under:

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court, be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.”

6. Considering the aforesaid facts and circumstances of the case, nature of accusation and the gravity of the offence, this Court is not inclined to grant bail to the petitioner.

7. The prayer is rejected. The trial Court is directed to expedite the Trial. However, if the trial is not concluded within a



period of five months from the date of receipt/production, the petitioner will have liberty to renew his prayer for bail in the Court below.

(Rudra Prakash Mishra, J)

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