

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10541 of 2024

Arising Out of PS. Case No.-21 Year-2013 Thana- NIMCHAKBATHANI District- Gaya

Ranjeet Kumar Yadav @ Ranjeet Yadav @ Ranjeet Kumar @Ajay Yadav Son
of Rajendra Prasad Yadav @ Rajendra Yadav, Resident of Village- Madho
Bigha, P.S.- Nimchak Bathani, Distt- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Vijay Yadav, S/o Late Jagpal Yadav, R/o Village-Bathani Tola,
Dharambigha, P.S. Nimchak Bathani, District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate Mr. Anjani Kumar Jha, Advocate
For the Opposite Party/s	:	Ms. Nirmala Kumari, APP
For the O.P. No. 2	:	Mr. Sunil Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 03-07-2025

Heard learned counsel appearing on behalf of the
parties.

2. The present application has been preferred by the
petitioner for quashing of order dated 06.01.2024 as passed
by learned 3rd Additional Sessions Judge, Gaya in Sessions
(Special) Trial Case no. 01/2022 (Sessions Trial no.
809/2022), arising out of Nimchak Bathani P.S. Case no. 21
of 2013, whereby the petition filed by the petitioner under
Section 227 of the Code of Criminal Procedure for discharge
was rejected.

3. The case of the prosecution in brief, that on



26.02.2013 at about 6.15 P.M. his elder brother, namely, Sumirak Yadav was returning after closing JDU office and as reached near the betel shop of Saryu Barai then all the accused persons armed with weapon surrounded the deceased and on the order of co-accused Kunti Devi, petitioner assaulted on his head with iron rod, caused bleeding from his head. Thereafter Vivek Yadav assaulted the deceased on his leg with iron rod, as a result he fell down. Thereafter all other accused persons assaulted the deceased by Lathi and danda. It is further alleged that the petitioner again gave order to the co-accused persons to assault the deceased till his death. It is also alleged that several persons were present at the place of occurrence and when others started to gather at the place of occurrence then all accused persons fled away therefrom. The motive behind occurrence as alleged is the political rivalry.

4. On the basis of aforesaid written information Nimchak Bathani P.S. Case no. 21 of 2013 was registered for offences under sections 341, 342, 323, 325, 307 and 34 of the Indian Penal Code and later on Section 302 of the Indian



Penal Code was added.

5. During course of the argument, Mr. P.N. Shahi, learned senior counsel appearing for petitioner submitted that the trial court was duty bound to consider all the materials available on record while rejecting the discharge petition as placed by petitioner under Section 227 of the Cr.P.C. including materials related with “*alibi*” as collected by the police.

6. In support of his submission, it is pointed out by Mr. Shahi that the petitioner was in Mumbai on the date of occurrence i.e. 26.02.2013 and this fact transpires during the course of investigation in para 73 of the case diary. It is also submitted that the mobile tower location of petitioner was found in Mumbai at different locations, whereas he could not contradict the finding of investigation that how mobile of petitioner bearing no. 8228038275, found roaming in different parts of State of Bihar soon before the occurrence and also on such dates, when petitioner claimed to be in Mumbai, mobile number of petitioner which was said to be found in Mumbai also not appears disclosed.



7. Learned counsel Mr. Sunil Kumar, appearing for opposite party no. 2 submitted that the plea regarding *alibi* as submitted above appears doubtful on its face, which even as settled law can be looked into during trial only.

8. Be it so, the rule of *alibi* being the rule of evidence and other factual aspects, which transpires during the course of investigation, which raised in defence at this stage cannot be looked into at this stage, even material in support of “alibi” collected by investigating agency qua petitioner also appears doubtful as mentioned aforesaid.

9. Therefore, the present petition appears devoid of any merit.

10. Accordingly, same stands dismissed.

11. Let copy of this judgment be send to court concerned immediately.

(Chandra Shekhar Jha, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.07.2025
Transmission Date	04.07.2025

