

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35277 of 2015

Arising Out of PS.Case No. -407 Year- 2014 Thana -DUMRA District- SITAMARHI

1. Jay Prakash Sah son of Mahendra Sah resident of Village - Banchauri,
P.S. - Dumra, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

with

Criminal Miscellaneous No.38631 of 2015

Arising Out of PS.Case No. -407 Year- 2014 Thana -DUMRA District- SITAMARHI

Ramesh Prasad Sah, S/o Late Nathuni Sah, resident of village- Banchauri,
P.S.- Dumra, District- Sitamarhi

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.35277 of 2015)

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate

For the Opposite Party/s : Mr. Nirmal Kr.Sinha(App)

(In Cr.Misc. No.38631 of 2015)

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate

For the Opposite Party/s : Mr. Md.Ataur Rahman(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH

ORAL ORDER

2 20-08-2015

Heard learned counsel for the petitioners and the
State.

The petitioners are apprehending their arrest in a
case registered for the offences punishable under Sections
341, 323, 307, 379, 504/34 of the Indian Penal Code.
Later on Section 302 of the Indian Penal Code was added.



The prosecution case is that the agnates and neighbour of the informant started laying foundation on the land of the informant. On protest being made the First Information Report named accused persons including the petitioners assaulted the informant. In the meantime the sister-in-law of the informant Khushiya Devi and nephew Bhairo Prasad came to intervene and started pacifying the scuffle, then petitioner Ramesh Prasad Sah assaulted with bamboo to the sister-in-law of the informant and others also assaulted with lathi and danda. Subsequently, Sukhiya Devi succumbed to the injuries.

It is submitted by the learned Senior Counsel for the petitioners that Sukhiya Devi has received two injuries on the head when one injury has been found to be simple and other is found to be grievous. Though accusation of assault is specific against Ramesh Prasad Sah. It is very difficult to suggest, who caused grievous injuries to victim as apart from Ramesh Prasad Sah others also assaulted her. The injuries of the informant and his nephew have been found to be superficial and simple in nature, whereas the petitioner Ramesh Prasad Sah, his son and others have also received injuries on their heads and the prosecution case does not suggest how these injuries were caused to the entire family of the petitioner Ramesh Prasad Sah and even assuming the accusation, at best a case under Section 304 of the Indian

Penal Code is made out, whereas the accusation is not specific against Jay Prakash Sah and similarly situated co-accused namely Parvati Devi and Rajesh Bharti @ Rajesh Kumar @ Raju have been granted anticipatory bail vide Cr. Misc. No. 10680 of 2015 and Cr. Misc. No. 12410 of 2015 respectively.

It is submitted by the learned counsel for the informant that there is specific accusation for making assault to sister-in-law of informant, who succumbed to the injuries and petitioners have criminal antecedent.

Considering the rival submissions of the parties, keeping in view of the fact that specific accusation of assault to the sister-in-law of the informant has been alleged against petitioner namely Ramesh Prasad Sah, who succumbed to the injuries, this Court is not inclined to entertain his prayer for anticipatory bail. But in view of the counter case and the injuries of petitioner Ramesh Kumar Sah and his family members, not being explained by the prosecution, it is a case for consideration of regular bail.

Let the learned court below consider the prayer for regular bail of the petitioner namely Ramesh Kumar Sah, if he surrenders before the learned court below within a period of six weeks from today in connection with Dumra P.S. Case No. 407 of 2014, pending in the court of learned Chief Judicial Magistrate, Sitamarhi.

So far as the other petitioner namely Jay Prakash

Sah is concerned, since accusation against him is not specific. Statement has been made in para-3 of the petition that petitioner namely Jay Prakash Sah has no criminal antecedent and similarly situated co-accused namely, Parvati Devi and Rajesh Bharti @ Rajesh Kumar @ Raju have been granted anticipatory bail vide Cr. Misc. No. 10680 of 2015 and Cr. Misc. No. 12410 of 2015 respectively, let the petitioner namely Jay Prakash Sah be released on bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Dumra P.S. Case No. 407 of 2014, subject to conditions as laid down under Section 438(2) of the Indian Penal Code.

(Dinesh Kumar Singh, J)

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