

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12422 of 2017

Arising Out of PS.Case No. -83 Year- 2016 Thana -PANAPUR District- SARAN

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1. Harendra Rai Son of Sakaldeo Rai, Resident of Village- Moriya Purab
Tola, P.S.- Panapur, District- Saran. Petitioner/s

Versus

1. The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar, Advocate

For the State : Mr. Sri Brajendra Nath Pandey

For the Informant : Mr. Devendra Narain Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

4 23-06-2017

Heard both sides.

The petitioner apprehends his arrest in Panapur P.S.
case No.83 of 2016 under Section 302 and other Sections of the
Indian Penal Code.

Daroga Rai, the informant, alleged that his brother,
Sipahi Rai, went to sleep at his Darwaja. He woke up at 11 in the
night and saw that Harendra Rai, the petitioner, Upendra Rai,
Juman Rai, Sonu Rai, Ambika Rai, Nagendra Rai and Pradip Rai,
his co-sharers, had surrounded Sipahi Rai from all around and
Ambika Rai and Harendra Rai caught the hands of Sipahi Rai.
Nagendra Rai caught the legs and Sonu Rai assaulted him with
Farsa on his head. When the informant went to save his brother,
the accused persons chased him.

The learned senior counsel for the petitioner submits
that informant is not an eye witness of the occurrence. During the



course of investigation the family members in paragraph 8, 9, 10 and 11 of the case diary stated that Sonu Rai and Upendra Rai assaulted Sipahi Rai. It is further submitted that Upendra Prasad Yadav @ Upendra Singh and Binod Kumar Yadav @ Juman Rai have already been granted anticipatory bail vide order dated 15.12.2016 passed in Cr. Misc. No. 42927 of 2016. Ambika Rai, who is alleged to have caught the hands of the deceased, has also been granted regular bail vide order dated 26.04.2017 passed in Cr. Misc. No. 7663 of 2017 and the petitioner may be enlarged on anticipatory bail.

On the other hand, Sri Devendra Naraian Singh, the learned counsel for the informant, as well as the learned Additional Public Prosecutor vehemently opposed the prayer for anticipatory bail and submitted that there is specific allegation that the petitioner along with Ambika Rai, who has been granted regular bail, caught the hands of the deceased and Sonu Rai is said to have assaulted him with Farsa. The case of Upendra Prasad Yadav @ Upendra Singh and Binod Kumar Yadav @ Juman Rai stands on different footing as there is no specific allegation against them in the FIR.

From the perusal of the FIR as well as the case diary, it appears that the informant, of course, alleged that petitioner and Ambika Rai caught the hands of the deceased and Sonu Rai is said



to have assaulted him with Farsa whereas the other family members made specific allegation that Sonu Rai and Upendra Rai assaulted the deceased. They did not make any specific allegation against the petitioner. Upendra Yadav @ Upendra Singh and Binod Kumar Yadav @ Jamun Rai have already been granted anticipatory bail. Ambika Rai, whose case stands on same footing as that of petitioner, has also been granted regular bail.

Considering the facts aforesaid, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the same is rejected.

If the petitioner surrenders in the court below, i.e., the learned A.C.J.M-IV, Saran at Chapra in Panapur P.S. case No. 83 of 2016, the learned court below shall consider the prayer for regular bail of the petitioner and dispose of the bail petition on the same day taking into consideration that similarly situated accused, Ambika Rai has been granted regular bail.

(Prabhat Kumar Jha, J)

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