

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18931 of 2019**

Arising Out of PS. Case No.-87 Year-2018 Thana- HAYAGHAT District- Darbhanga

SHYAM YADAV @ SHYAMALI YADAV @ SHYAM KUMAR YADAV @
SHAMALI YADAV, Son of Ram Naresh Yadav, Resident of Village-
Dhowopur, Bansara, P.S.- Hayaghat, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Prasad, Advocate
Mr. Kaushal Kumar, Advocate
For the Opposite Party/s : Mr.Suman Kumari Singh, APP

**CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER**

3 21-05-2019 Heard learned counsel for the petitioner and the
learned counsel appearing on behalf of the State.

The petitioner is apprehending his arrest in connection
with Hayaghat P.S. Case No.87 of 2018 for allegedly having
committed the offence under Sections 147, 148, 149, 341, 323,
324, 307, 379, 504 and 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that though
it has been alleged that the petitioner had assaulted the
informant with *Talwar* and an injury report of the private
hospital has been brought on record, there is a serious cloud on
the prosecution story in view of the fact that while the informant
was taken to DMCH for treatment, no injury report was
prepared at that point of time and the informant without taking



any discharge ticket from the DMCH was then referred to the P.M.C.H. for higher treatment. However, the injured chose not to go to the PMCH, but instead treated at the private hospital where it appears that an FIR was recorded by the police on 26.09.2018. However, the same failed to be registered immediately thereafter and instead, the same was referred to the concerned P.S. for investigation on 07.10.2018 i.e., after nearly ten days of the date of recording of the FIR at Patna. He thus submits that there is a serious doubt on the prosecution story and the petitioner may be extended the privilege of pre-arrest bail as other similarly situated co-accused persons, who are alleged to have attacked the informant, have since been granted anticipatory bail in Cr.Misc.No.843 of 2019 vide order dated 28.01.2019 and Cr.Misc. No.10457 of 2019 vide order dated 22.02.2019.

Learned counsel for the petitioner further points out that there is no plausible explanation offered for the delay in lodging the FIR and the case is also a sequel to an earlier case of kidnapping, in which the petitioner was facing prosecution and which was pending in the trial. It is further submitted that not a single independent witness had come to support the prosecution case and the petitioner undertakes to co-operate in the



investigation and be present, as and when required. It is further submitted that the petitioner and the informant are agnates and there is a serious land dispute between the parties and it is on account of such disputes that there has been a series of litigations. It is also submitted that the petitioner is not having any criminal antecedent and therefore, the story in the FIR that the petitioner was asking him to withdraw from the earlier case is rather improbable.

Having considered the entire facts and circumstances of the case and considering the fact that the petitioner has no criminal antecedents, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned IVth Additional Chief Judicial Magistrate, Darbhanga, in connection with Hayaghat P.S. Case No.87 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and also subject to the following conditions:

(1) One of the bailors will be the wife of the petitioner.

(2) The petitioner shall not indulge himself in any similar offence till conclusion of



the trial.

(3) The petitioner shall remain physically present in court on each and every date during trial and in the event of his failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjana Mishra, J)

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