

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.612 of 2020

Arising Out of PS. Case No.-50 Year-2019 Thana- BHAGWANPUR District- Vaishali

PREM SAH Son of Sanjay Sah Resident of Village - Akbar Malahi, P.S.-
Sarai, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Naresh Chandra Verma
For the Opposite Party/s	:	Mr.Nirmala Kumari
For the Informant	:	Mr. Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 18-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioner, informant and learned counsel for the State.

The petitioner is languishing in jail since 12.7.2019 in a case registered for the offences punishable under Sections 341,323,504 and 307/34 of the IPC, Section 27 of the Arms Act and Sections 3 and 4 of Dowry Prohibition Act.

The prosecution case, as per the Fardbeyan of Chandan Kumar recorded by S.I. of Police, Agamkuan Police Station on 14.3.2019 at 11.30 A.M. at Sarvoday Emergency Hospital, Patna, is to the effect that on 13.3.2019 at 11.45 P.M., the informant was sleeping in his cattle shed, in the meantime, the



petitioner (brother-in-law of the informant) came and started abusing. It is alleged that on the order of his father Sanjay Sah, the petitioner fired with a pistol causing injury on the chest of the informant and thereafter, he escaped from the scene. Consequently, the informant was being treated at the Primary Health Centre, Bhagwanpur and thereafter he was referred to Sadar Hospital, Hajipur, where from, he was referred to PMCH but for better treatment he got himself admitted in a private hospital, namely, Sarvoday Emergency Hospital, Patna. It is further alleged that the petitioner was married with the sister of the informant in 2014 and subsequently, there was demand of motorcycle and ultimately, the marriage was dissolved between the parties, leading to registration of the present case.

It is submitted by learned counsel for the petitioner that the petitioner performed love marriage with the sister of the informant but subsequently, the marriage could not be continued and ultimately with the intervention of the family members, they parted ways. Hence, there was no occasion for the petitioner to commit the offence. But, since the relationship between them became sour, hence the petitioner has falsely been roped in the present case. It is further



submitted that the injury is alleged to have been caused to the informant on 13.3.2019 at 11.45 P.M. when the Fardbeyan was recorded after about 12 hours of the occurrence, i.e., on 14.3.2019 at 11.30 A.M. that too, in a private hospital which clouds the accusation of assault. Moreover, from the fardbeyan, it appears that the injury was not as such that the informant was not able to state every minutest detail of the incident, which suggests that the informant did not receive any serious injury. There is no accusation of repeating the blow. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent. The investigation has already been concluded.

Learned APP and learned counsel for the informant submit that the petitioner is the sole assailant and the accusation is of causing injury with pistol on the chest of the informant.

The case diary was called for vide order dated 28.1.2020, but the case diary recorded up to 27.9.2019 has been transmitted to this Court, which does not contain any injury report, which suggests the callous manner in which the offices of the Superintendent of Police, Vaishali as well as ACJM III, Vaishali are functioning.



Considering the fact that there is no accusation of repeating the blow against the petitioner, delayed lodging of the case and the fact that the informant was conscious enough to give detailed statement of the incident, which suggest the nature of injury caused to him coupled with the period in custody, let the petitioner above named be released on bail, for the present, provisionally for a period of three months on furnishing one surety to the satisfaction of the learned ACJM III, Vaishali at Hajipur in connection with Bhagwanpur P.S. Case No. 50 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-Mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM III, Vaishali at Hajipur including one surety



given at the time of provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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