

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10689 of 2020**

Arising Out of PS. Case No.-142 Year-2019 Thana- AMDABAD District- Katihar

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Ansarul Haque, aged about 34 years, Male, S/o Abdul Salam, Resident of
Village- Maltipur, P.S.- Amdabad, Distt- Katihar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Lakshmi Kant Sharma

For the Opposite Party/s : Mr.Shyameshwar Dayal

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

2 29-02-2020 Heard both sides.

The petitioner seeks bail in Amdabad P.S. Case No.142 of 2019, giving rise to S.T. No.05 of 2020, registered under Sections 147, 148, 302, 307, 323, 324, 341, 504 read with Section 34 of the Indian Penal Code.

The informant disclosed that there is no partition amongst his uncle and father with regard to ancestral property but his uncle, Abdul Salam executed sale deed with regard to a land situated by the side of the road in favour of his son. The informant objected and on such objection the mutation could not be done. It is further alleged that on 19.08.2019, the informant along with his father Tabzul Haque and uncle Mozmil Haque was going to village Bahadurpur but when they reached near village Halka Kutchery, Imamul, Md. Abuzar @ Sudhiyan,



Abdul Salam and Shahnawaz intercepted them and they all assaulted the father and uncle of the informant with *Dabiya*, *Farsa* and iron rod. Abdul Salam exhorted them to kill. It is further alleged that Md. Abuzar @ Sudhiyan snatched Rs.1,62,000/- from their possession.

Learned counsel for the petitioner submits that the petitioner, Ansarul Haque is not named in the FIR, therefore, there is no question of any allegation of assault against the petitioner. The informant in his further statement made in para 50 of the case diary, for the first time, disclosed the name of the petitioner that he was also participant in the occurrence. It is further submitted that save and except a belated statement made by the informant, who claimed himself to be eye witness of the occurrence, there is no justification for naming the petitioner that too at such belated stage of investigation in para 50 of the case diary. One of the named accused, namely, Abdul Salam has already been granted bail vide order passed in Cr. Misc. No.7199 of 2020 on 31.01.2020.

Learned counsel for the informant as well as the learned Additional Public Prosecutor vehemently opposed the prayer for bail but the learned counsel for the informant submitted that of course the name of the petitioner figured at a



belated stage in further statement of the victim in para 50 of the case diary but the informant and other witnesses made allegation against the petitioner also.

Taking into consideration the facts that the petitioner is not named in the FIR but the informant, who claimed himself to be an eye witness of the occurrence, did not disclose the name of the petitioner in the FIR although he made specific allegation against four accused persons that they all indiscriminately assaulted his father and uncle and his uncle died during the course of treatment but later on the same informant disclosed the name of the petitioner, the petitioner is also one of the cousins of the informant, petitioner, namely, Ansarul Haque is directed to be enlarged 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 Additional Sessions Judge-V, Katihar in connection with Amdabad P.S. Case No.142 of 2019, giving rise to S.T. No.05 of 2020.

(Prabhat Kumar Jha, J)

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