

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.13521 of 2021**

Arising Out of PS. Case No.-448 Year-2019 Thana- CHANDI District- Nalanda

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NARAYAN PASWAN, S/o LATE KARU PASWAN, Resident of Village-
Mahmadpur, P.S.- Chandi, Distt- Nalanda.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Udbhav, Advocate
For the Opposite Party/s : Mr. Dashrath Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 03-09-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Dashrath Mehta, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Chandi P.S. Case No. 448 of 2019 registered
for the offence punishable under Section 302 & 34 of the Indian
Penal Code. He is in custody since 31.01.2020 having no other
criminal antecedent.

As per the prosecution story, the alleged occurrence
took place at 12.00 A.M. (during night hours) when the elder
son of the informant was sleeping at a distance of 10 ft. from the

informant in his Khalihan. The informant claims that he heard few people coming there and on getting awaken he saw that F.I.R. named accused Navin Paswan, Manohar Paswan and Narayan Paswan (this petitioner), having sticks (lathi) and Kudal in their hands were assaulting indiscriminately on the son of the informant. The informant claims that he wanted to speak something but the accused persons fled away.

Learned counsel for the petitioner submits that the informant who claims to be an eye witness is lacking credibility inasmuch as it would appear that he claims to have heard the sound of arrival of some persons and got awaken but does not claim to have raised any hulla, further he claims to have seen six accused persons lashed with lathi, Kudal (spade) and thereafter he says that the accused were assaulting by Pasa of spade, therefore, those who were having lathi were not assaulting. The informant does not disclose that who were lashed with Kudal. The allegation is that of giving indiscriminate assault on the body of the son of the informant, thus, the allegations are general and omnibus.

Learned counsel further submits that the post-mortem report of the dead body has disclosed only one injury on the head of the deceased. The Doctor has specifically stated in the

post-mortem report that a lacerated wound on the left side of head just above and back of left ear has been found. The Doctor has further recorded that no injury is visible on chest, abdomen and all the four limbs. It is, thus, his contention that this case is one of over implication of the accused on mere suspicion because the petitioner happens to be the brother of the informant and they have got a land dispute.

Mr. Dashrath Mehta, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner and has submitted that the informant has claimed that this petitioner along with co-accused were assaulting the deceased son of the informant. Motive has been attributed to the petitioner because of land dispute, however, learned A.P.P. has after going through the case diary confirmed to this Court that the Doctor has opined only one injury on the head of the deceased.

Considering the facts and circumstances of the case, in the nature of the materials placed before this Court particularly that there is no specific allegation in the F.I.R. as to who were assaulting by spade, though the informant claims to be an eye witness and further that the post-mortem report is disclosing only one injury on the head of the deceased whereas the allegation is that of giving indiscriminate assault on the body

of the deceased, in the circumstances, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Hilsa in connection with Chandi P.S. Case No. 448 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.