

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14217 of 2021**

Arising out of PS. Case No.-230 Year-2020 Thana- MANSI District- Khagaria

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Arun Yadav, aged about 45 years, Son of Muso Yadav Resident of village -
Mansi, Police Station - Mansi, District - Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar, Advocate
For the State : Ms. Pushpa Sinha, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 17-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 09.08.2021, which was allowed.

3. Heard Mr. Shashank Shekhar, learned counsel for the petitioner and Ms. Pushpa Sinha, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Mansi PS Case No. 230 of 2020 dated 10.08.2020, instituted under Sections 341, 323, 387 and 307/34 of the Indian Penal Code and 27 of the Arms Act.

5. The allegation against the petitioner is of assault on the informant demanding extortion of Rs. 20,000/- and specifically



against co-accused Bambam Yadav that he exhorted to kill the informant and is said to have fired twice and against co-accused Raja Yadav is that he gave pistol to Bambam Yadav, the first shot missing but second shot hitting him on the left thigh.

6. Learned counsel for the petitioner submitted that the parties are agnates, which fact has been suppressed in the FIR. It was submitted that between the agnates there cannot be demand of extortion. Further, it was submitted that against the petitioner the allegation at best is that he was also present where there was demand of extortion of Rs. 20,000/-, but no overt act has been alleged against him and rather the specific overt act of exhorting to kill is against co-accused Bambam Yadav and co-accused Raja Yadav is that have given pistol to Bambam Yadav who fired twice resulting in injury to the informant. It was submitted that the parties are also on litigating terms as it would be clear from the fact that there is partition suit between them and earlier Mansi PS Case No. 135 of 2019 dated 11.06.2019 under Sections 341, 323, 307, 504 and 506/34 of the Indian Penal Code was instituted by Phul Kumari against the informant's brother.

7. Learned APP submitted that the allegation against the petitioner is that he along with other co-accused had abused the



informant and demanded extortion. However, it was not controverted that no overt act is alleged against the petitioner.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, it appears that non-disclosing the fact that the parties are agnates as also there being bleak chance that one agnate would demand extortion from another agnate and the parties being on litigating terms from before and, most importantly, no overt act being alleged, which is against another co-accused and not against the petitioner, the Court is persuaded to allow the prayer for pre-arrest bail.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Khagaria in Mansi PS Case No. 230 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner, and (iii) that the petitioner shall co-operate with the Court and police/prosecution. Any violation of the terms and



conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

11. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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