

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23248 of 2021

Arising Out of PS. Case No.-164 Year-2020 Thana- PURNEA SADAR District- Purnia

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Kaishar Raja @ Md. Quaisar Raza (male), aged about 20 years, Son of
Parwez Alam @ Md. Parwez Alam Resident of Village- Mahendrapur, Ward
No.2, P.S.- Purnia Muffasil, District- Purnia (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madhav Roy, Advocate

For the State : Mr. Lakshmi Kant Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 04-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Madhav Roy, learned counsel for the
petitioner and Mr. Lakshmi Kant Sharma, learned Additional
Public Prosecutor (hereinafter referred to as the 'APP') for the
State.

3. The petitioner apprehends arrest in connection with
Purnea Sadar PS Case No. 164 of 2020 dated 07.05.2020,
instituted under Sections 147/148/341/323/307/379/504/506 of
the Indian Penal Code.

4. This is the second attempt for seeking pre-arrest bail
by the petitioner as earlier such prayer was rejected by common
judgment and order dated 04.11.2020 in the case of seven
persons, including the petitioner, in Cr. Misc. No. 25371 of



2020.

5. Learned counsel for the petitioner submitted that as would be clear from the order dated 04.11.2020, the Court was persuaded by the submission of learned APP that there was direct allegation of assault on the head which is corroborated by the injury report against the present petitioner and against others it was general and omnibus. It was submitted that such submission was erroneous as in the FIR itself it has been stated that the petitioner had caught hold of the informant and had started assaulting him but thereafter it has been stated that co-accused Md. Sakib, who was having iron rod in his hand had hit the informant on the head resulting in injury and bleeding. It was submitted that from the injury report of the informant, copy of which has been made Annexure-4, it is clear that only one lacerated wound on the right parietal region has been found which is specifically attributed to co-accused Md. Sakib and not the petitioner. Thus, it was submitted that all the petitioners in Cr. Misc. No. 25371 of 2020 were on similar footing and only the prayer of the petitioner, out of seven petitioners therein, was rejected by making such distinction, which is an error of record.

6. Learned APP could not controvert the contention of learned counsel for the petitioner.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the submissions of learned counsel for the petitioner is factually correct as specifically in the FIR, only a general statement has been made that the petitioner caught hold of the informant and had started beating him but specially against co-accused Md. Sakib it is alleged that he gave iron rod blow on the head of the informant and the injury report discloses only one lacerated wound on the parietal region. Thus, the Court finds that all the petitioners of Cr. Misc. No. 25371 of 2020 stand on similar footing as far as the allegation is concerned.

8. Having regard to the aforesaid, the Court finds that since the injury on the informant being only one, that too, on the head, which is specifically attributed to co-accused Md. Sakib and not the petitioner and further that since similarly situated co-accused have been granted the privilege of pre-arrest bail, the Court is inclined to allow the prayer.

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 learned Chief Judicial Magistrate, Purnia in Purnia Sadar PS Case No. 164 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, (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 cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation 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 of bail by the petitioner, 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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