

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 23776 of 2021

Arising Out of PS. Case No.-624 Year-2020 Thana- PHULWARISHARIF District- Patna

Md. Nayeem @ Md. Nayeem Ansari, Male, aged about 51 years, Son of Late Md. Ishaque, Resident of Village - Isopur, PS- Phulwari Sharif, District – Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the State	:	Mr. Kumar Veerendra Narayan, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 10-08-2021

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 03.08.2021 which was allowed.

3. Heard Mr. Manoj Kumar, learned counsel for the petitioner and Mr. Kumar Veerendra Narayan, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

4. The petitioner apprehends arrest in connection with Phulwari Sharif PS Case No. 624 of 2020 dated 16.11.2020, instituted under Sections 341, 323, 324, 307, 379 and 504/34 of the Indian Penal Code and 27 of the Arms Act, 1959.



5. The allegation against the petitioner is that he made the informant stop his car and had assaulted him with fists and slaps along with others and thereafter against all accused is that they had disrobed the informant and another co-accused is said to have snatched the mobile and money of the informant and the petitioner is then said to have fired.

6. Learned counsel for the petitioner submitted that he is the local Ward Councillor and has been falsely implicated due to political rivalry. Learned counsel submitted that the shop of the informant is near the shop of the nephew of the petitioner and it has been stated in the FIR that due to spitting of betel at the shop of the nephew of the petitioner, the said incident has taken place. It was submitted that the allegation is general and omnibus of only assault by fists and slaps and no injury report has been brought on record as has been noted in the order of the Court below itself. Learned counsel submitted that even the allegation of firing is general as there is no statement of anybody being hit by such firing. He submitted that the petitioner, along with five others, had filed application for grant of anticipatory bail before the Court below and by common order dated 06.02.2021, while the prayer of four others was allowed, that of the petitioner and co-accused Md. Munna was rejected only on the ground that they had



criminal antecedent. It was submitted that the specific allegation of overt act on the informant causing injury, though not supported by any injury report, is against co-accused Md. Munna and not the petitioner. Learned counsel submitted that in the said order, it has also been noted that from perusal of the case diary, it transpires that none of the witnesses have supported the allegation regarding firing and snatching and, thus, the petitioner is innocent having been implicated for oblique reasons. It was submitted that as far as the question of antecedent is concerned, against the petitioner, there is a case in the year 2005 under Section 396 of the Indian Penal Code and a complaint case of the year 2014 under Sections 406 and 418 of the Indian Penal Code and in both the cases, he is on bail and besides that there is no other case against him.

7. Learned APP submitted that the petitioner had also assaulted the informant. However, it was not controverted with regard to the finding recorded in the order of the Court below that none of the witnesses have supported the allegation of firing and snatching and also that there is no injury report available.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the allegation with regard to the petitioner having fired not corroborated in police investigation and there being no injury



report, as has been noted in the order of the Court below, the Court is inclined to grant pre-arrest bail to the petitioner.

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 Sub Judge IX cum ACJM, Patna in Phulwari Sharif PS Case No. 624 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 co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate 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.)

P. Kumar

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