

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33868 of 2021**

Arising Out of PS. Case No.-233 Year-2019 Thana- BARGAINIA District- Sitamarhi

Pinku Kumar @ Pinku Jaiswal S/O Prabhu Chaudhary R/o village- Parsauni,
P.S.- Bairstania, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N. K. Agarwal, Sr. Advocate
For the Opposite Party/s : Mr. APP

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 30-11-2021 Heard Shri N. K. Agarwal, learned senior counsel for
the petitioner and learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Bargainia P.S. Case No. 233 of 2019 instituted for the offences under Sections 341, 323, 307, 504, 506, 34 and 379 of the Indian Penal Code.

Learned senior counsel for the petitioner submits that the petitioner is in custody since 30.01.2021, charge-sheet has been submitted in the case and is a person with clean antecedent.

Learned senior counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that informant alleges that on 05.10.2019 in the night at 12.30 his son Santosh Kumar was called by Pinku



Jaiswal (petitioner) through mobile at Nanuar Dhala and his son on pressure of Pinku Jaiswal went there where he was called where Kamal Sahni, Binod Mahto, Ram Bhagat, Saheb Mahto and Mahesh Mahto were sitting from before and they were drinking and eating. Further, that petitioner started pressurising the informant's son for drinking and gambling and on his refusal it is alleged that the petitioner fired injuring the son of the informant and snatched his mobile and purse containing Rs. 7,000/-. It is further alleged that petitioner along with other accused persons were carrying the injured Santosh by vehicle with a view to conceal the injury but the accused were apprehended and the injured was taken to the clinic of Dr. Varun Kumar for treatment.

Learned senior counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that informant is not an eye-witness to the occurrence neither the allegation, as alleged, even remotely suggest that it was the injured who disclosed what happened at the place of occurrence, as such the learned senior counsel submits that based on suspicion, the entire allegation has been alleged in the F.I.R. because it is not possible to allege so specifically in absence of being an eye-witness. Further, it is



submitted that the son of the informant and other accused persons named in the F.I.R. were friends. The allegation is of early morning of 06.10.2019 but the injury report shows that the injured was taken to the doctor after a delay of one day, as such it is submitted that the occurrence may not have taken place in the manner it has been alleged.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner.

Considering the fact that the petitioner is in custody since 30.01.2021, informant is not an eye-witness, charge-sheet has been submitted in the case and the petitioner is a person with clean antecedent, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Sitamarhi in connection with Bargainia P.S. Case No. 233 of 2019 subject to the condition as laid down under Section 437 (3) Cr.P.C. with a condition that one of the bailor shall be the father of the petitioner and the petitioner will mark his attendance in the concerned police station on 15th of every month commencing from December, 2021 till the charges are not framed and in the event it is reported to the learned court below that the petitioner has not



marked his attendance on any of the 15th of any of the month,
the court below shall be at liberty to cancel his bail bonds.

(Satyavrat Verma, J)

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