

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.28562 of 2020**

Arising Out of PS. Case No.-241 Year-2018 Thana- HATHAURI District- Muzaffarpur

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MOHAN RAY Son of Sonelal Rai Resident of Village - Berai, P.S.- Hathauri,  
District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

|                          |   |                                        |
|--------------------------|---|----------------------------------------|
| For the Petitioner/s     | : | Mr.Pushpendra Kumar Singh, Adv.        |
| For the Opposite Party/s | : | Mr.Akhileshwar Dayal, APP              |
| For the Informant        | : | Mr. Raju Kumar, Adv.                   |
|                          |   | Mr. Pradhan Murli Manohar Prasad, Adv. |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

6      29-01-2021                      Heard learned counsel for the petitioner, learned  
counsel for the informant and Mr. Akhileshwar Dayal, learned  
APP for the State.

The petitioner in the present case is seeking pre-arrest  
bail in connection with Hathauri P.S. Case No.241 of 2018  
registered for the offences punishable under Sections 147, 148,  
149, 447, 323 and 302 of the Indian Penal Code.

Learned counsel for the petitioner submits that it is a  
case of over-implication of the accused inasmuch as it would  
appear from the fardbeyan of the informant that altogether 14  
named and 10 unnamed persons have been made accused in this  
case. It is submitted that according to the prosecution all these  
persons came to the house of the informant lashed with various



weapons. It is alleged that co-accused Sanjay Rai, Monu Rai and Jai Nandan Rai were soughting that whosoever will come he will be killed. It is then alleged that on hearing the soughting the brother of the informant came outside the house, he was assaulted by Sanjay Rai, Mohan Rai, Jai Nandan Rai and Vijay Rai who were having iron rod and farsa etc. in their hand. It is then alleged that when the family members of the informant came there to save him, they were also assaulted.

Learned counsel submits that the allegations are completely general and omnibus kind of allegations, no particular weapon has been attributed to the hand of this petitioner and in course of investigation neither the injured nor any other witness has specifically alleged that this petitioner had given any blow to the victim. It is further submitted that the postmortem report of the deceased shows only two injuries on the body of the deceased, therefore it indicates that several persons have been made accused with sole intention to falsely implicate.

Learned counsel has drawn the attention of this Court towards the judgment of the Hon'ble Apex Court in the case of **Bhadresh Bipinbhai Seth Vs. State of Gujarat** reported in **(2016) 1 SCC 152** and submits that this is a case in which the



Hon'ble Apex Court has considered that in a case of over-implication the privilege of anticipatory bail may be granted.

It is further pointed out that co-accused Vijay Rai @ Vijay Yadav who is similarly situated with this petitioner has been granted privilege of anticipatory bail by a learned coordinate Bench of this Court in Cr.Misc.No.15820 of 2020.

On the other hand, learned counsel for the informant as well as learned APP for the State have opposed the prayer for anticipatory bail of the petitioner. They have read out paragraph '9', '24' and '25' of the case diary wherein the witnesses including the injured witnesses have stated generally that all the accused persons had assaulted, in one of the paragraphs it has been alleged that co-accused Sanjay Rai was assaulting on the chest of the deceased but no witness is making specific allegation against this petitioner about commission of any overt act. It has further been pointed out by learned counsel for the informant that another learned coordinate Bench of this Court had earlier refused to grant privilege of anticipatory bail to co-accused Sanjay Rai and the prayer for regular bail of the Jai Nandan Rai has been rejected.

Having regard to the facts and circumstances of the case, the materials placed before this Court showing 14 named



and 10 unnamed persons being made accused, there are general and omnibus kind of allegation of causing assault upon the deceased, but the postmortem report is showing only two injuries on the body of the deceased, in course of investigation no witness is specifically alleging any overt act against this petitioner, in the nature of the dispute and the materials and that the petitioner has otherwise no criminal antecedent, this Court is inclined to take a similar view which has been taken by the learned coordinate Bench of this Court in the case of Vijay Rai.

Let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Hathauri P.S. Case No.241 of 2018 be released on bail on furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Muzaffarpur, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any



person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

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'.

