

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42530 of 2021

Arising Out of PS. Case No.-49 Year-2021 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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Pawan Ray @ Pawan Kumar Ray, aged about 37 years, Male, son of Ram Dayal Ray, resident of Village- Bejhadih, Ward no. 2, P.S. Samastipur (Muffasil), District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anshu Dhar Sharma, Advocate
For the State	:	Mr. Bishweshwar Ram, APP
For the Informant	:	Mr. Ranjan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 24-09-2021

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, which was allowed.

3. Heard Mr. Anshu Dhar Sharma, learned counsel for the petitioner; Mr. Bishweshwar Ram, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Ranjan Kumar, learned counsel for the informant.

4. The petitioner apprehends arrest in connection with Samastipur Muffasil PS Case No. 49 of 2021 dated 27.01.2021, instituted under Sections 341, 323, 307, 302, 504, 120-B of the Indian Penal Code.



5. The allegation against the petitioner is that he along with two other unknown persons had assaulted the informant with fists and slaps and then there is general and omnibus allegation of all the accused assaulting the father of the informant.

6. Learned counsel for the petitioner submitted that as per the FIR itself the father of the informant was initially assaulted by other co-accused and the petitioner is said to have assaulted along with two other accused by fists and slaps and though there is general allegation that all the accused had also assaulted the informant's father by *lathi*, *danda* and iron rod, but neither any injury report has been produced nor the same has been noticed in order of the learned 5th Additional District and Sessions Judge, Samastipur, in ABP No. 444 of 2020 dated 03.06.2021, by which the prayer for anticipatory bail of the petitioner was rejected. Learned counsel submitted that the injury on the brother of the informant, who later succumbed, is not attributed to him and that there was no assault on the father as he has not sustained any injury which would be clear that it was only the brother of the informant, who needed special treatment, was referred by the local hospital at Samastipur to Patna and died on the way, but nothing has been stated with



regard to what happened to the father of the informant. Learned counsel submitted that the petitioner has no other criminal antecedent and the dispute is between agnates.

7. Learned APP does not dispute the fact that the allegation against the petitioner and two other unknown accused is of assaulting the informant with fists, slaps and only in general and omnibus terms it is alleged that all the accused had also assaulted the father of the informant.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the parties being agnates and the allegation of assault by fists and slaps against the petitioner and there being nothing on record to show what injury has been suffered by the father of the informant and the petitioner also not having any other criminal antecedent, the Court is inclined 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 learned ACJM II cum Sub Judge-V, Samastipur, in Samastipur Muffasil PS Case No. 49 of



2021, 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 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 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)

J. Alam/-

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