

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35485 of 2020

Arising Out of PS. Case No.-217 Year-2018 Thana- MAHNAR District- Vaishali

Pulish Rai, age 46 years (Male), son of late Saryug Rai, resident of village -
Allipur Hutta, P.S.- Mahanar, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Singh, Advocate
For the State	:	Ms. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 20-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Mukesh Kumar Singh, learned counsel for the petitioner and Ms. Pushpa Sinha, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Mahanar PS Case No. 217 of 2018 dated 26.08.2018, instituted under Sections 147, 149, 323, 325, 307, 504, 506 and 379 of the Indian Penal Code.

4. The petitioner along with others is accused of assault on the informant side and specifically against the petitioner, of inflicting iron rod blow on the hand of the informant.



5. Learned counsel for the petitioner submitted that though as per the allegation, the assault was on the hand and a fracture has also been found in the X-ray, but the informant side were the aggressors as has come during investigation. Learned counsel submitted that it is not alleged that the petitioner gave repeated blows which shows that there was no intention to cause any serious harm and because of there being scuffle, in the heat of the moment, injuries have been sustained by both the sides. Learned counsel submitted that the petitioner's side had also lodged a counter case for the same incident. It was submitted that the petitioner has no criminal antecedent. Learned counsel submitted that he may be given some time to take instructions as to whether the matter has been settled/compromised between the parties. It was submitted that from the FIR itself it is clear that it was the informant's side, which had come to confront the petitioner's side as to why they had lodged a complaint with the Superintendent of Police against them. Learned counsel submitted that the present case is counter blast to Mahnar PS Case No. 223 of 2018 in which the *fardbeyan* of the petitioner was recorded in the Sadar Hospital, Hajipur, on 26.08.2018 at 10.00 AM and thereafter this case has been lodged on 26.08.2018 by the informant. Learned counsel submitted that



the present case has been instituted on the basis of a written complaint and the incident alleged is of a day prior i.e., 25.08.2018 and for the delay, there is no explanation. Learned counsel submitted that the parties are agnates and there is land dispute and on the petitioner's side, injury is grievous, whereas, on the informant's side, except for one injury i.e., fracture of the hand, other injuries are simple in nature and most importantly, the petitioner himself being injured, if at all, had committed some overt act, it was to protect himself, which would be clear from Mahnar PS Case No. 223 of 2018. Learned counsel submitted that the petitioner has no criminal antecedent.

6. At this juncture, when the Court asked learned counsel for the petitioner as to what were his instructions as he had taken time to know whether the matter has been settled/compromised between the parties, he submitted that despite the best effort of the petitioner, as a Title Suit is pending between the parties, the informant's side is not ready for any settlement.

7. Learned APP, from the case diary, submitted that witnesses have supported the prosecution case. However, it was not controverted that the place of occurrence is at the house of the petitioner. It was also not controverted that except for



fracture on the hand of the informant, all other injuries are simple in nature as also the fact that independent witnesses have stated that even the informant had attacked the petitioner by iron rod and he had sustained injuries.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, 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-VI, Vaishali at Hajipur, in Mahnar PS Case No. 217 of 2018, 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.

9. 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.

10. The petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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