

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35909 of 2020

Arising Out of PS. Case No.-153 Year-2020 Thana- BIDUPUR District- Vaishali

SUNNY KUMAR Son of Ratnesh Ray Resident of Village - Gopalpur, P.S.-
Bidupur, District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur
For the Informant	:	M/s Rupa Kumari & Jugal Kishore
for the State	:	Mrs. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 22-06-2021 Heard both sides.

The petitioner apprehends his arrest in Bidupur PS case No. 153/2020 registered under Section 302/34 of the IPC.

The informant, brother of the deceased, alleged that on 03.05.2020 at about 8 PM when his brother Ritesh Kumar was passing through nearby the house of Nagdeo Rai, his son Sanjay Rai, Ranjan Kumar, Sunny Kumar, Binni Kumar and Mukesh Singh surrounded his brother Ritesh Kumar. When Ritesh Kumar protested, Sanjay Ray assaulted him with sword on different places of his head. When the family members of the informant came to save, the accused persons fled away. The informant brought his brother to PMCH for treatment but his brother died on 04.05.2020 at 8 AM.

The learned counsel for the petitioner submits that the informant, Arun Kumar, in his first statement before the police, named the petitioner and others and alleged that petitioners and others surrounded his brother Ritesh Kumar and Sanjay Ray assaulted him with sword but the informant did not make any



allegation of assault against any other accused person. It is further submitted that informant in his further statement improved the case and alleged that all the accused persons, including the petitioner, who was armed with Farsa, assaulted his brother. The post mortem report shows that the deceased got as many as six injuries out of which four injuries are stitch wound on head but at the same time the doctor opined that all the injuries found on head of the deceased are caused by hard and blunt object. Moreover, there is no allegation of assault against the petitioner, therefore, the petitioner deserves anticipatory bail.

On the other hand the learned counsel for the informant and the learned APP vehemently opposed the prayer for anticipatory bail and submit that the informant lodged the FIR on the basis of information received from his brother, the deceased, but during the course of investigation there are other eye witnesses such as Ram Naresh Singh, Alok Kumar and others who categorically stated that petitioner and others indiscriminately assaulted Ritesh Kumar with sword and Lathi. Ritesh Kumar was badly injured and he fell down on the ground. It is further submitted that anticipatory bail petition of Ranjan Kumar and Vinny Kumar have already been rejected by a coordinate Bench of this court vide order passed in Cr. Misc. No. 34547/2020 and the case of petitioner stands on same footing.

It appears that although the informant in his first statement alleged that petitioner and others surrounded the deceased Ritesh Kumar and Sanjay Ray assaulted the deceased but later on besides the informant many other witnesses, who claimed themselves to be eye witnesses of the occurrence,



disclosed that petitioner also assaulted the deceased. Of course, there is counter version being Bidupur PS case No. 158/2020 but there is difference of time of occurrence. Anticipatory bail petition of similarly situated two other accused persons has already been rejected by a coordinate Bench of this court, therefore, I find that petitioner does not deserve anticipatory bail. Accordingly, the prayer of petitioner for anticipatory bail is rejected.

(Prabhat Kumar Jha, J)

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