

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 49632 of 2021

Arising Out of PS. Case No.-124 Year-2019 Thana- KINJAR District- Jehanabad

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Dharmendra Kumar, aged about 19 years, Gender-Male, Son of Ramkrit Yadav @ Shivilagan Singh, Resident of Village- Salempur, PS- Kinjar, District- Arwal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nitya Nand Neeraj, Advocate
For the State : Mr. Sanjay Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-10-2021

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. Nitya Nand Neeraj, learned counsel for the petitioner and Mr. Sanjay Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Kinjar PS Case No. 124 of 2019 dated 15.12.2019, instituted under Sections 147, 149, 341, 323, 354, 307 of the Indian Penal Code, 1860 and 27 of the Arms Act, 1959.



5. As per the FIR, the petitioner along with 10 other named accused is said to have assaulted the informant and his daughter with *lathi*, *danda* and brickbats causing head injury.

6. Learned counsel for the petitioner submitted that the allegation is general and omnibus in nature and the reason is that because of the accused side holding grievance against the informant that he did not vote for their candidate has committed such crime but the fact is that for the same incident, there is also a counter case and injury has been sustained on the side of the accused also which has not been explained in the present FIR. Learned counsel submitted that from the order of the learned Additional Sessions Judge, Vth, Jehanabad in ABP No. 642 of 2020 in order dated 20.08.2020 by which the prayer for anticipatory bail of the petitioner was rejected, it would be clear that the injury sustained is simple in nature and, thus, no offence is made out under Section 307 of the Indian Penal Code. Learned counsel submitted that the petitioner does not have any other criminal antecedent. Further, it was submitted that similarly situated co-accused Madheshwar Yadav has been granted anticipatory bail by a co-ordinate Bench by order dated 19.03.2021 passed in Cr. Misc. No. 35214 of 2020 and Ramlal Yadav and Dhananjay Kumar have also been granted anticipatory



bail by a co-ordinate Bench by order dated 09.04.2021 passed in Cr. Misc. No. 35632 of 2020.

7. Learned APP submitted that the petitioner was party to assault on the informant and his daughter. However, he could not controvert that in the order of the Court below, the injury sustained are said to be simple in nature and further that similarly situated co-accused have been granted anticipatory bail by co-ordinate Benches.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the allegation against the petitioner being general and omnibus and that he was one of the 11 named accused as also the injury report disclosing that the same were simple in nature and the petitioner not having any other criminal antecedent as also similarly situated co-accused being granted anticipatory bail, 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, III, Arwal in Kinjar PS Case No. 124 of 2019, 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 he shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate 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.)

P. Kumar

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