

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35950 of 2020

Arising Out of PS. Case No.-126 Year-2020 Thana- BACHHWARA District- Begusarai

VIKASH KUMAR @ VIKASH RAI @ BUDHAN@VIKASH KUMAR
RAY S/O SRI LAGANDEO RAI R/O VILLAGE - KURMI TOLA, PATPUR,
CHAMTHA, WARD NO.10, P.S. - BACHHWARA, DISTRICT -
BEGUSARAI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Alok, Adv.
For the State	:	Mr. Tapeswar Sharma, APP
For the Informant	:	Mr. Shashi Kant Amar, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 12-07-2021 Heard learned counsel for the petitioner, learned
A.P.P. and learned counsel for the informant through Video
Conferencing.

The petitioner apprehends his arrest in Bachhwara
P.S. Case No.126 of 2020 registered under Sections 147, 148,
149, 323, 324, 302, 506 and 504 of the Indian Penal Code.

The informant alleged that *amin* was measuring his
land and during the course of measurement, the informant went
to the land of Mahesh Chandra Rai. Mahesh Chandra Rai
abused the informant and threatened him of dire consequences.
The informant left the land of Mahesh Chandra Rai but in the
meantime Bindeshwari Rai (brother of the informant) was

returning and when he reached near the house of the petitioner, 14 accused persons having armed with different weapons surrounded Bindeshwari Rai and assaulted him. It is further alleged that on the order of Mahesh Chandra Rai, Rakesh inflicted axe blow on the head of Bindeshwari Rai causing head injury. The informant and his nephew Sanjay also arrived there but Wakil Rai assaulted and caused head injury to Sanjay.

Learned counsel for the petitioner submits that the informant alleged that 14 persons including the petitioner surrounded the brother of the informant and on the order of Mahesh Chandra Rai, Rakesh assaulted the brother of the informant with axe on his head. The deceased Bindeshwari Rai got only one injury on his head and on account of fatal injury, Bindeshwari Rai succumbed to the injury. There is no other injury on any part of the body of Bindeshwari Rai. Therefore, the allegation of assault by all the accused persons is falsified and not corroborated from the postmortem report. Similarly situated co-accused, namely, Sukhdeo Rai and Lagandeo Rai @ Laldeo Rai have been granted anticipatory bail by different benches of this Court vide order passed in Cr.Misc.No.35297 of 2020 and Cr.Misc.No.36110 of 2020. Therefore, the petitioner also deserves anticipatory bail.

Learned A.P.P. and Mr. Shashi Kant Amar, learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submit that of course only one injury is found on the head of the deceased but all the accused persons having common object assembled at the place of occurrence. They were armed with lethal weapons and, therefore, the petitioner does not deserve anticipatory bail.

Having considered the submissions of both sides and on perusal of record, it appears that the informant although made allegation against 14 accused persons that they all surrounded the deceased but made specific allegation only against Rakesh that he on the order of Mahesh Chandra Rai assaulted the deceased with axe on his head. The postmortem report shows that the deceased got only one injury on his head and on account of such injury, the deceased died. Similarly situated two other accused persons, namely, Sukhdeo Rai and Lagandeo Rai @ Laldeo Rai have been granted anticipatory bail. The case of the petitioner stands on same footing.

Taking into consideration the facts aforesaid, the petitioner, above named, in the event of his arrest or surrender before the learned court below within a period of four weeks from the date of receipt/production of a copy of this order, is

directed to be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Begusarai in connection with Bachhwara P.S. Case No.126 of 2020, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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