

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)**

CRIMINAL MISCELLANEOUS No.38770 of 2020

Arising Out of PS. Case No.-91 Year-2020 Thana- JALALPUR District- Saran

Rajesh Mahto S/o Dudhnath Mahto R/o Village - Makanpura, P.S. - Jalalpur,
District- Saran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh, Advocate

For the Opposite Party/s : Dr. Mrityunjaya Kumar Gautam, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 14-07-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Jalalpur P.S. Case No. 91 of 2020 registered for the offences punishable under Section 147, 148, 149, 341, 323, 324, 307, 379, 302 of the Indian Penal Code.

Learned counsel for the petitioner submits that the F.I.R. is in two parts, in the first part the accused name from serial no. 1 to 7 are the persons who are allegedly involved in causing assault upon the son of the informant who later on succumbed to his injuries and died. In the second part, the accused name from serial no. 8 to 18 along with 100-150 unknown persons are said to be the persons who had allegedly involved in causing assault when the informant along with four other persons had gone to the door of the father of this petitioner



to enquire about the alleged occurrence.

It is submitted that in the First Information Report the informant alleged that he came to know about the name of the seven accused persons from the persons who were coming on the Tractor during evening time and had seen the accused fleeing away from the place of occurrence. In course of investigation one Bikram Ray has made statement in paragraph '18' of the supplementary case diary and he has stated that he had seen the accused persons fleeing away from the place of occurrence.

Learned counsel submits that the petitioner has got no criminal antecedent, there is no eye witness to the alleged occurrence and the involvement of the petitioner is based on the statement of the said Bikram Ray alone, no other persons who were there on the Tractor has been examined.

The petitioner is in custody in connection with this case since 01.06.2020, investigation against him is complete but the trial is not likely to take place in near future.

On the other hand, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner. It is submitted that the petitioner was one among the seven accused persons who had been seen fleeing away from the place of



occurrence. The co-accused Bihari Prasad has been granted bail by the learned coordinate Bench of this Court, he is an accused in the second part of the F.I.R. The post mortem report reveals seven external injuries and about six internal injuries. In such circumstances, it is submitted that the petitioner does not deserve privilege of bail.

Considering the facts and circumstances of the case wherein this Court has noticed that altogether seven persons are named as accused in the first part of the F.I.R. and they were allegedly seen fleeing away from the place of occurrence, there is no eye witness to the alleged occurrence, the statement of Bikram Ray has been recorded in paragraph '18' three months after the lodgment of the F.I.R., petitioner has otherwise no criminal antecedent, he is in custody in connection with this case since 01.06.2020, investigation against him is complete but the trial is not likely to take place in near future, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate - 1st Class, Chapra, in connection with Jalalpur P.S. Case No. 91 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as



under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

