

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37122 of 2020

Arising Out of PS Case No.-122 Year-2020 Thana- DESARI District- Vaishali

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Braj Kishor Rai, aged about 50 years, Male, Son of Late Buddha Rai,
Resident of Taiyabpur, PS- Desari, District- Vaishali at Hajipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Baxi S R P Sinha, Sr. Advocate Mr. Anish Chandra, Advocate
For the State	:	Mr. Arun Kumar
For the Informant	:	Mr. Mukesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Baxi SRP Sinha, learned senior counsel along with Mr. Anish Chandra, learned counsel for the petitioner; Mr. Arun Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Mukesh Kumar, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with Desari PS Case No. 122 of 2020 dated 22.05.2020, instituted



under Sections 341, 323, 324, 307, 447, 379, 354, 504 and 506/34 of the Indian Penal Code.

4. The allegation against the petitioner and others is of assault on the informant and also her relatives and specifically against the petitioner of having inflicted sword blow on the head of the informant resulting in injury and thereafter, entering the informant's house and taking away box containing Rs. 50,000/-, gold jewellery worth Rs. 1,00,000/-, clothes and papers of land.

5. Learned counsel for the petitioner submitted that for the same incident, there is also a counter version and the petitioner has also filed an FIR. It was submitted that though the incident is said to have taken place on 10.05.2020, but the FIR has been instituted only on 22.05.2020 for which there is no explanation. Learned counsel submitted that even the endorsement by the learned CJM has not been properly made on the formal FIR which also raises a doubt with regard to both the correctness of the allegations made as well as the fact that the allegations are cooked up subsequently. Learned counsel submitted that there has been injury on the petitioner's side also.

6. Learned APP submitted that the allegation against the petitioner is direct and specific of assault by sword on the head and also of looting away cash, jewellery etc.



7. Learned counsel for the informant submitted that no delay has been caused on the part of the informant as her statement was recorded by the Sub Inspector of Town PS, Hajipur in Hajipur Sadar Hospital Emergency Ward and the endorsement also shows that it was received by the police on 10.05.2020 and if there is any delay in formal registration of the FIR, for the same, the informant is not responsible and further that it would not weaken the prosecution case, much less prove fatal to the same. Learned counsel drew the attention of the Court to order of the learned Additional District and Sessions Judge, X, Vaishali at Hajipur dated 28.08.2020 passed in ABP No. 1809 of 2020, rejecting the prayer for anticipatory bail of the petitioner, to contend that it has been noted that the injury report of the informant shows that it is of grievous nature caused by sharp cutting weapon on the head and the same being specifically attributed to the petitioner, it is clear that the petitioner is responsible for such act. Further, it was submitted that even otherwise, the petitioner is accused in Desari PS Case No. 150 of 2015, under various sections of the Indian Penal Code including Section 307 and also the Arms Act and also in Complaint Case No. 623 of 2016, under grave sections of the Indian Penal Code including Section 307 and, thus, he is a habitual offender.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, the petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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