

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.565 of 2021**

Arising Out of PS. Case No.-193 Year-2019 Thana- ADAPUR District- East Champaran

MUSTUJAB HAWARI @ MUSTUJA HAWARI S/o Almiuddin Hawari R/o
village- Jamunbhar, P.S.- Adapur, District- East Champaran.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No.1, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

2 23-08-2021 As prayed for, let the learned counsel appearing for the petitioner remove the defect(s), as pointed out by the office vide its notes dated 01.01.2021, within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and the learned A.P.P. for the State through video conferencing.

The petitioner apprehends his arrest in connection with Adapur P.S. Case no. 193 of 2019, registered under Sections 341, 323, 324, 307 and 302/34 of the Indian Penal Code.

The accusation is that Mustujab Hawari (Petitioner), Mustak Hawari, Murtaza Hawari and Majbullah Hawari having lathi, stick, Farsa and iron-rod attacked on informant Naeesh Hawari in which informant fell down on the



ground and raised alarm. On hearing hulla, Hasmuddin Hawari, Naimuddin Hawari, Sajda Khatoon and Naiyaz Hawari, family members of the informant, rushed to save then they were also assaulted. When Tahir, one of the family members of informant, rushed there then Kaishar Hawari attacked on him through Farsa causing injury at his head, who fell down. Thereafter, Mustufa Hawari gave iron rod blow at the head of Tahir Mian. On hearing, villagers rushed then all accused fled away, thereafter, family members of the informant rushed to the hospital, where in course of treatment Tahir Mian died.

Learned counsel for the petitioner submits that, in fact, occurrence of Marpit took place due to previous enmity in which Almiuddin Hawari, father of the petitioner, sustained injury and died regarding which Adapur P.S. Case No. 194 of 2019 was instituted against prosecution side. Further submission is that it would appear from the F.I.R. that deceased Tahir Mian, who is said to be assaulted by co-accused Kaushar Hawari and Mustafa Hawari, while general allegation has been made against the petitioner and other to cause injury to the informant and his family members, but none has sustained injury in the said occurrence. Further submission is that similarly situated co-accused Murtuja Hawari and two others



have already been granted privilege of pre-arrest bail by a co-ordinate Bench of this Court on 10.08.2021 passed in Criminal Miscellaneous No. 4809 of 2021. The petitioner has no criminal antecedent.

Having regard to the facts and circumstances of the case, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M. Raxaul, East Champaran at Motihari in connection with Adapur P.S. Case No. 193 of 2019 (G.R. No.1136 of 2019), subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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