

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4152 of 2021

Arising Out of PS. Case No.-120 Year-2020 Thana- MALSALAMI District- Patna

UDAI RAI @ UDAY RAY @ MUKHIYA JI Son of Sri Pitambar Rai
Resident of Village - Sukumarpur, P.s.- Raghapur, Distt.- Vaishali, Presently
residing at Pattherghat, P.S.- Malsalami, Distt.- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Sanjay Kumar
For the Opposite Party/s : Mrs. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 09-08-2021 Heard learned counsel for the petitioner and learned
APP for the State through virtual mode.

Learned counsel for the petitioner is directed to
remove the defects, as pointed out by the Office, within a period
of four weeks after restoration of normalcy.

A supplementary affidavit has been filed on behalf of
the petitioner. The same be kept on record.

The petitioner is apprehending his arrest in a case
registered under Sections 147, 148, 149, 323, 324, 307, 504, 364
of the Indian Penal Code in which sections 302 and 201 of the
Indian Penal Code were added later on.

The prosecution allegation, in short, is that the
accused persons, variously armed, assaulted the informant due



to which he sustained injury. Thereafter, the accused persons started assaulting informant's maternal brother and his parents and carried along with them. The informant has suspicion that the accused persons might have killed his maternal brother.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. No specific overt act is alleged against the petitioner. General and omnibus allegation has been made against the petitioner. From perusal of the F.I.R., it appears that the informant has raised a suspicion against the petitioners for killing of the deceased. Annexure-9 to the supplementary affidavit is the order dated 16.07.2019 passed in Cr. Misc. NO. 8711/2019 where a Coordinate Bench of this Court has held that if the procedure as laid down under the Cr.P.C. is not followed then order passed under Section 83 of the Cr.P.C. is bad in the eye of law. Learned counsel for the petitioner submits that in the present case also, the procedure has not been followed while passing the order under Section 83 of the Cr.P.C. which is evident from the order of the Trial Court annexed with the present application.



On behalf of the State, it is submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances and also the lockdown, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned A.C.J.M. -IV, Patna City, Patna in connection with Malsalami P.S. Case No. 120 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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