

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.7086 of 2021**

Arising Out of PS. Case No.-474 Year-2020 Thana- AKBARPUR District- Nawada

Surendra Yadav, Son of Upendra Yadav, Resident of Village Gosaibigha ,P.S.
Akwarpur District- Nawada

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Chandra Mohan Jha, Advocate
For the Opposite Party/s	:	Mr. Akhileshwar Dayal, A.P.P.
For the informant	:	Mr. Satyendra Prasad, Advocate

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

5 04-08-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Akwarpur P.S. Case No. 474 of 2020 registered for the offence punishable under Section 302/34, 341, 323 and 307 of the Indian Penal Code.

As per the prosecution story, while the informant was coming to his house from the market by motorcycle with his cousin brother, in way due to wrong driving of Tempo by co-accused Naga Chaudhary the informant and his cousin brother

Dharmendra Kumar Singh fell down. Thereafter, a scuffle took place and Naga Chaudhary started assaulting the cousin brother Dharmendra Kumar Singh and called other members of the family. It is further alleged that the accused persons named in the F.I.R. came there and indulged in assaulting the informant and his cousin brother. It is further alleged that Surendra Yadav (petitioner) gave a lathi blow on the head of the informant causing injury on his head. It is further alleged that Naga Chaudhary gave knife blow to his cousin brother and Rahul Chaudhary gave lathi blow on his head and Arjun Chaudhary assaulted on his mouth and nose by fists causing injury on his nose and lips and treating him dead, they fled away from the place of occurrence.

Learned counsel for the petitioner submits that on a complete reading of the fardbeyan of the informant it would appear that so far as this petitioner is concerned there is no allegation that he had assaulted the cousin brother of the informant (since deceased).

Learned counsel submits that the allegation against the petitioner is that he had given one lathi blow to the informant on his head.

It is further submitted that the co-accused Arjun

Chaudhary who had assaulted the deceased, had given fists blow on his mouth and nose and those injuries are present in the post-mortem report, has already been released on bail by order dated 29.06.2021 passed by a learned co-ordinate Bench of this Court in Cr. Misc. No. 7415 of 2021. The petitioner has otherwise no criminal antecedent and has remained in custody for over one year.

Learned counsel for the informant as well as Mr. Akhileshwar Dayal, learned A.P.P. for the State have though opposed the prayer for bail of the petitioner but learned A.P.P. has not pointed out any specific allegation against this petitioner of causing assault upon the deceased. As regards the injury of the informant, learned A.P.P. submits that no injury report is available in the diary.

Considering the facts and circumstances of the case wherein this Court has noticed that the allegation of giving knife blow and causing other injuries on the body of the deceased have been made against co-accused Naga Chaudhary and some other co-accused but no specific allegation has been made against this petitioner of causing assault upon the deceased, no injury of the informant has been brought to the notice of this Court, the petitioner has remained in jail for over one year, he

has otherwise no criminal antecedent and some of the co-accused have been granted bail in different cases and one of them in Cr. Misc. No. 7415 of 2021, in the circumstances, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nawada in connection with Akwarpur P.S. Case No. 474 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’.