

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8808 of 2021**

Arising Out of PS. Case No.-248 Year-2020 Thana- NAUBATPUR District- Patna

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GAYA RAI @ GAYA PRASAD S/O Bhagwan Rai Resident Of Village -
Ghanshayampur, P. S. - Naubatpur, District - Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Sandip Kumar, Sr. Advocate Mr.Prakash Chandra Jha, Advocate
For the Informant	:	Mr.Satish Chandra, Advocate
For the State	:	Mr. Anand Mohan Prasad Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 06-08-2021 Heard learned Senior Counsel for the petitioner,

learned counsel for the informant and learned A.P.P. for the

State.

Petitioner, in the present case, is seeking regular bail
in connection with Naubatpur P.S. Case No. 248/2020
corresponding to G.R. No. 1526/2020 registered for the offences
punishable under Section 147, 148, 149, 341, 323, 324, 307, 302
of the Indian Penal Code.

As per the prosecution story, the informant has
alleged that on 18.05.2020 at 10:00 P.M. her husband was
coming from Bihta and when he reached near the house of one
Beni Prasad, Beni Prasad and his family members started
abusing him, on hearing hulla the informant reached there and

saw that accused persons assaulting her husband by Farsa, iron rod and this petitioner was assaulting her husband by Spear on Panjara. The informant further alleged that Raj Kumar, Sunil Rai, Rahul Kumar, Rohit all were assaulting her husband with iron rod.

Learned Senior Counsel for the petitioner submits that in the First Information Report there is specific allegation that this petitioner had assaulted the deceased on his stomach by a spear but on perusal of the post mortem report it would appear that no spear injury has been found on his stomach. In fact there is no injury on the stomach at all.

Learned Senior Counsel therefore submits that it is a case of over implication of the accused. The petitioner has got two criminal antecedents, in both the cases he is said to be on bail.

Learned counsel for the informant though initially opposed the prayer for regular bail of the petitioner, however when this court called upon him to say as to whether any spear injury has been found on the stomach of the deceased, learned counsel for the informant has fairly accepted at this stage that no spear injury has been found on the stomach. In fact the injuries have been found on the left parietal region, right knee, over

right arm with a fracture of Hamson bone and lacerated wound over right elbow and the nature of the injuries caused by sharp cutting weapon. Learned counsel for the informant therefore accepts that the allegations against this petitioner that he had assaulted the deceased by a spear on his stomach is not getting support from the post mortem report.

Learned A.P.P. for the State is also present and has endorsed the submission of learned counsel for the informant.

Considering the facts and circumstances of the case wherein the allegation against the petitioner is not getting support from the post mortem report and the injury shown therein, the petitioner has already remained in jail for over one year in connection with this case, investigation against him is complete, but the trial is not likely to take place in near future, and the petitioner has got two criminal antecedents in which he is said to be on bail, 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 Additional Chief Judicial Magistrate – II, Danapur, Patna, in connection with Naubatpur P.S. Case No. 248/2020 corresponding to G.R. No. 1526/2020, 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'.