

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 10313 of 2021

Arising Out of PS. Case No.-250 Year-2020 Thana- MAHARAJGANJ District- Siwan

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Pradeep Kumar, Male, Aged about 46 years, son of Late Vishwanath Prasad,
Resident of Purani Bazar, Maharajganj, P.S. Maharajganj, District-Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the State	:	Ms. Asha Kumari
For the Informant	:	Mr. Arbind Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 10-06-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner yesterday, which was allowed.

3. Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner; Ms. Asha Kumari, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Arbind Kumar, learned counsel for the informant.

4. The petitioner apprehends arrest in connection with Maharajganj PS Case No. 250 of 2020 dated 18.09.2020, instituted under Sections 342/323/324/326/307/338/504/506/34 of the Indian Penal Code.

5. The allegation against the petitioner and five others



is of assault on the informant and his father and specifically against the petitioner is that he had iron rod in his hand and had assaulted the father of the informant.

6. Learned counsel for the petitioner submitted that the genesis of the incident is that there was dispute with regard to construction of speed breaker on the road which was opposed by the informant and his wife, who is a Ward Councillor, due to which there was verbal spat and co-accused Satyam Kumar is said to have been armed with sword and the petitioner with the iron rod and it is alleged that the father of the informant was assaulted by them and also that co-accused Ujjwal Kumar attacked the informant with knife in the stomach. It was submitted that at best the allegation as per the FIR itself is assault by iron rod on the father of the informant, which is not corroborated by the injury report. Learned counsel drew the attention of the Court to Annexre-3, which is injury report of the father of the informant and is also a report after CT Scan, which also does not show any fracture of bone and the brain parenchyma is normal in morphology and density. It was submitted that the said allegation of assault by the petitioner is, thus, not corroborated and obviously false. Learned counsel submitted that the petitioner has no criminal antecedent and



there is political rivalry between the families and the informant and his father have been convicted and sentenced to three years rigorous imprisonment in which the informant also was an accused, but got benefit under the Juvenile Justice Act. It was submitted that though the occurrence is said to have taken place on 11.09.2020, but the *fardbeyan* was recorded only on 14.09.2020, without any explanation for the delay.

7. Learned APP submitted that there is allegation of assault by iron rod against the petitioner. However, it was not controverted that CT scan of the brain of the father of the informant does not show sign of any injury.

8. Learned counsel for the informant submitted that the petitioner was also party to the assault. However, he also could not controvert the fact that the allegation of assault by iron rod on the father of the informant is not corroborated by injury report and CT scan of brain of the father of the informant.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of



the concerned Judicial Magistrate 1st Class, Siwan in Maharajganj PS Case No. 250 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner, and (iii) that the petitioner shall co-operate with the Court/police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

11. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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