

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21262 of 2021

Arising Out of PS. Case No.-223 Year-2020 Thana- NARHATT District- Nawada

Vicky Kumar Son Of Sanjay Yadav Resident Of Village- Kusha, Police
Station- Narhat, District- Nawada

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Birendra Kumar, Advocate
For the Opposite Party/s : Mr. Bipin Kumar, Mr. Damodar Pd.Tiwary
Mr. Abdul Hakim, Mr. Sadam Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 28-02-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Learned counsel for the petitioner is directed to
remove the defect(s), as pointed out by the Office, within a
period of four weeks.

The petitioner is apprehending his arrest in Narhat P.S.
Case No. 223/2020 registered under Sections 341, 323, 302,
201 and 34 of the Indian Penal Code.

The prosecution allegation, in short, is that the accused
persons including the petitioner assaulted the deceased with
lathi, danda and hockey due to which he died.

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 is none but the grandson of the deceased. The allegation of assault is against the petitioner, his father and his mother. General and omnibus allegation has been made against the petitioner and his parents for assaulting the deceased. No specific overt act is alleged against the petitioner. As per the F.I.R., deceased, in course of treatment, disclosed the informant that he was assaulted by the petitioner and his father. The alleged date of occurrence is said to be 11.09.2020 for which the present case was instituted on 13.09.2020. It is further submitted on behalf of the petitioner that for the same occurrence, prior to the institution of the present case, another case was instituted by the daughter of the deceased against the present prosecution party on 11.09.2020 itself. The present case is nothing but an afterthought and has been instituted in retaliation to the case instituted by the daughter of the deceased. As per Annexure-2 i.e. the case instituted by the accused persons of the present case, it is evident that the petitioner and his parents were also injured in course of the occurrence and the said injuries have not been explained by the prosecution.

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



allegation of assault alleged against the petitioner and his father upon the deceased. The deceased during treatment had specifically named the petitioner and his father who had assaulted him. From perusal of the post-mortem report, it would appear that the deceased had sustained multiple injuries including fracture of rib leading to rupture of lung. Further, it has been indicated that the weapon used in course of the occurrence was hard and blunt substance.

Considering the fact that there is allegation of assault alleged against the petitioner, I am not inclined to grant anticipatory bail to the petitioner. Prayer is rejected. However, if the petitioner surrenders in the Court below and prays for bail, the same shall be considered on its own merit without being prejudiced by this order.

(Sudhir Singh, J)

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