

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26742 of 2021

Arising Out of PS. Case No.-408 Year-2020 Thana- KATEYA District- Gopalganj

Atul Mishra @ Atulya Mishra S/O Jaleshwar Mishra R/O Village- Ramdas
Bagahi, P.S.- Kateya, District- Gopalganj

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Vyas Kumar Mishra, Advocate
For the Opposite Party/s :	Mr. Gauri Shankar Gupta, APP
For the Informant :	Mr. Sanjay Kumar Pandey No.5, Advocate

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

6 20-01-2022 The applicant/accused in Crime No. 408 of 2020 registered with Kateya Police Station for the offences punishable under Sections 341/323/325/307/379/354 of the Indian Penal Code. Later on offence under Section 302 read with Section 34 of the Indian Penal Code was added. By this application he is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He submits that co-accused, namely, Uttam Mishra, situated in similar situation is already directed to be released on bail by a coordinate Bench of this Court vide order dated 17.11.2021 passed in Cr. Misc. No.23000 of 2021. He further argued that even co-accused Mantu Singh is also



directed to be released on bail by a coordinate Bench of this Court vide order dated 06.01.2022 passed in Cr. Misc. No.41828 of 2021. It is further argued that allegation as against the present applicant principally is to the effect that he assaulted first informant by means of an iron rod but there is no such injury on the first informant. Investigation of the crime in question is over and therefore further pretrial detention of the applicant is not warranted.

As against this, the learned Additional Public Prosecutor as well as learned counsel for the first informant submit that there was pre-planned murder of deceased Rampunit Mishra apart from causing injury to Sukhdeo Mishra and therefore the applicant is not entitled for bail. It is submitted that the prosecution witnesses have supported the case of the prosecution.

I have considered the submissions so advanced and also perused the materials placed before me.

Indisputably, co-accused Uttam Mishra is directed to be released on bail by a coordinate Bench of this Court vide order dated 17.11.2021. In the FIR, Purshottam Mishra has alleged that Alok Mishra and Uttam Mishra gave abuses to him and attempted to assault him by means of an iron rod but



he had saved himself by shielding head by means of left hand. It is further averred by the first informant that when his uncle Ram Punit Mishra and father Sukhdeo Mishra came to save him, the present applicant apart from Jaleshwar Mishra and Rameshwar Mishra had assaulted them by means of an iron rod causing head injury to them. It is further averred that his sister Jhunni Devi and brother Anand Mishra is also assaulted by the accused persons including co-accused Uttam Mishra.

During the course of investigation statement of Jhunni Devi is recorded. She stated that co-accused Alok Mishra and Uttam Mishra had given blows of iron rod on head of Rampunit Mishra and Sukhdeo Mishra. Another witness Anand Mishra has also stated that when uncle and father of first informant (namely, Rampunit Mishra and Sukhdeo Mishra) came to rescue the first informant, co-accused Alok Mishra and Uttam Mishra had assaulted both of them (namely, Rampunit Mishra and Sukhdeo Mishra) by means of an iron rod causing head injuries to them. So far as present applicant is concerned, both these witnesses have stated that he along with other co-accused had assaulted Rampunit Mishra and Sukhdeo Mishra after they were lying injured because of blows given by co-accused Alok Mishra and Uttam Mishra.



Ultimately, Rampunit Mishra died because of injuries sustained by him. Co-accused Uttam Mishra against whom fatal blows are attributed by witnesses Jhunni Devi and Anand Mishra is already directed to be released on bail by the coordinate Bench of this Court. Case against the present applicant is standing on much lower footing as against the case against said Uttam Mishra who is already directed to be released on bail by a coordinate Bench of this Court.

In this view of the matter, I see no reason to refuse bail to the applicant, who is also stated to be a person of clean antecedent and hence, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 408 of 2020 registered with Kateya Police Station be released on bail on executing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the



trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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