

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19581 of 2022

Arising Out of PS. Case No.-16 Year-2022 Thana- PUPRI District- Sitamarhi

Md. Amjad @ Md. Amjad Ali @ Mithu, Son Of Abdul Bari Resident Of
Village- Awapur, P.S.- Pupri, District- Sitamarhi.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abu Nasar- Advocate Mr. Fahad Khurshid- Advocate Mr. Vikash Kumar Jha- Advocate
For the State	:	Mr. Chandra Bhushan Prasad- A.P.P.
For the Informant	:	Mr. Kumar Nikhil- Advocate Mr. Dwij Raj- Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 14-06-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in anticipation of his arrest in
a case registered for the offences punishable under Sections 147,
148, 149, 341, 323, 307, 302, 34, 324 of the Indian Penal Code
and Section 27 of the Arms Act.

The learned counsel for the petitioner submits that the
petitioner has antecedent of one case, but ultimately the case
was compromised.

The learned counsel for the petitioner submits that the
informant instituted the F.I.R. against 17 named accused persons
including the petitioner alleging that on account of electoral
defeat of erstwhile Md. Mahfooz Alam and sister-in-law of Md.
Abdullah in last panchayat election, the present occurrence took



place. Further, the accused persons came at the door of the informant variously armed and assaulted the informant and injured him. It is next alleged that the accused persons were searching the brother of the informant. The brother of the informant was caught and on orders of Md. Mahfooz Alam, the accused Md. Afroz inflicted knife blow in his stomach. Md. Shamim, Md. Sami and Md. Waris also assaulted by knife and lathi respectively and Md. Wajid resorted to firing and accused Md. Abdullah also inflicted knife blow on the brother of the informant in his stomach. It is next alleged that thereafter the named accused persons excluding the petitioner brought kerosene oil to burn the body for wiping out the evidence, but on account of intervention of the villagers, they were saved and the accused fled.

The learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R., it would manifest that the informant with precision has given in detail that what arms was being carried by each of the accused persons. It is next submitted that the allegation of assault is also specific as detailed in the F.I.R., but no overt act has been alleged against the present petitioner except that he was also member of the mob. The learned counsel submits that the



occurrence, it seems, took place on account of electoral dispute in which several persons came to be implicated even without alleging any overt act against them.

The learned counsel for the informant as well as learned A.P.P. for the State opposes the anticipatory bail application and submits that petitioner has antecedent of three cases. It is next submitted that process under Section 82 of the Cr.P.C. has been issued and the petitioner commanded the entire occurrence.

The learned counsel for the petitioner rebuts the submission of the learned counsel for the informant and submits that petitioner has only one antecedent against him as stated in Para-3 of the petition. The process under Section 82 of the Cr.P.C. till date has not been issued against the petitioner and as far as it is submitted that petitioner commanded the entire occurrence, it was not this petitioner, but it was Md. Amjad Ali, son of Late Md. Akhtar of village Maulanagar, when this petitioner is the son of Abdul Bari of village-Awapur. The learned counsel for the petitioner further submits that though process under Section 82 of the Cr.P.C. has not been issued against the petitioner, but then also the petitioner was availing his remedy available in law right from the beginning and as



such, during the pendency of his availing remedy available to him in law, the learned Court below should refrain from issuing process when an accused is availing his remedy and is not evading the law. The learned counsel at the cost of repetition submits that no process under Section 82 of the Cr.P.C. till date has been issued against the petitioner.

Considering the submissions made by the learned counsel for the petitioner and the fact that no overt act has been alleged against the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Pupri P. S. Case No.16 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

(Satyavrat Verma, J)

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