

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37796 of 2022

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

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AMJAD ALI @ MD. AMJAD ALI Son of Late Md. Akhtar Resident of
village - Awapur, P.S. - Pupri, District - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Abu Nasar, Advocate
For the Opposite Party/s	:	Mr. Uday Pratap Singh, APP
For the Informant	:	Mr. Dinesh Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 10-08-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

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

Learned counsel for the petitioner submits that the petitioner has antecedent of four cases, it is next submitted that from perusal of Para-3 of anticipatory bail application, it would manifest that the three cases are under minor section and one case is under Section 307, but then in the said case there was no injury as such petitioner was granted bail by the learned Magistrate.



Learned counsel for the petitioner next submits that the informant instituted the present FIR 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 for the brother of the informant, who was caught and on order of Md. Mahfooz Alam, the accused Md. Afroj inflicted knife blow on his stomach, Md. Shamim, Md. Sami and Md. Waris also assaulted by knife and lathi respectively and Md. Wajib resorted to firing and accused Md. Adbullah, thereafter inflicted knife blow on the brother of the informant on his stomach. It is next alleged that thereafter the named accused persons, excluding the petitioner, brought kerosene oil to burn the body of the deceased for wiping out the evidence, but on account of intervention of the villagers they were saved and the accused fled.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that informant with precision has given in detail that



what arms were being carried by each of the accused persons, it is next submitted that the allegation of assault is also specific as detailed in the FIR, but no overt act has been alleged against the present petitioner except that he was commanding the accused persons, it is next submitted that the said allegation is ornamental for the reason that the dispute was political as such the informant in order to implicate the petitioner alleged that it was he, who was commanding the accused person, it is next submitted that it appears that on account of electoral dispute, several accused persons came to be implicated falsely in the present case without alleging any overt act against them. The learned counsel next submits that even from perusal of the allegation as alleged in the FIR it would manifest that as far as this petitioner is concerned no overt act has been alleged but he has been implicated on the ground that he was commanding the accused persons, it is thus submitted that the allegations are ornamental in nature. The learned counsel next submits that inadvertently at Para-3 one case with both instituted against the petitioner in the year 2004 could not be stated as the deponent perhaps was not aware or was not properly instructed.

Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the



petitioner. The learned counsel for the informant submits that process under Section 82 Cr.P.C. has been issued and the petitioner commanded the entire occurrence.

Learned counsel for the petitioner rebuts the submission of the learned counsel for the informant and submits that though process under Section 82 was issued but the same has been stayed by the learned District Court in Criminal Revision No. 26/22. The learned counsel next submits that co-accused Md. Amjad @ Mithu against whom no overt act has been alleged, has been granted bail by order dated 14.06.2022 in Cr. Misc. No. 19581 of 2022, further Jaseem Faizi, Tasim Faizi and Wassem Faizi have been granted bail by order dated 28.07.2022 in Cr. Misc. No. 37460 of 2022 and Md. Mahfooz Aalm has been granted bail by order dated 08.08.2022 in Cr. Misc. No. 36159 of 2022.

Considering the submissions made by the learned counsel for 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, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the



case is pending/successor court in connection with Pupri P.S.
Case No. 16 of 2022 subject to the conditions as laid down
under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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