

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55350 of 2021

Arising Out of PS. Case No.-110 Year-2020 Thana- DAGARUA District- Purnia

Md. Husnain, S/o Wahid, R/o village- Hatgachhi, P.S.- Dagaruwa, District-
Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Dr. Bidhu Ranjan, Advocate
For the State	:	Mr. Dashrath Mehta, APP
For the Informant	:	Mr. Rashid Izhar, Advocate Mr. Jagjit Roshan, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

6 03-08-2022 Heard learned senior counsel for the petitioner,
learned APP for the State and learned counsel for the Informant.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Dagaruwa P.S. Case No. 110 of 2020, registered for the alleged offences under Sections 147, 148, 149, 341, 323, 307, 504 and 302 of the Indian Penal Code.

As per the prosecution case, over some dispute, a *Panchayati* was convened in which both the informant and the petitioner's side were participating. Some altercation took place and the informant and his sons and daughters were assaulted by 28 persons named in the FIR and the petitioner is one of them. The allegation against this petitioner is that he hit on the head of



the son of the informant with *khanti* and the son of the informant died in course of the treatment.

The learned senior counsel for the petitioner submits that it is apparent from the FIR that there was no premeditation regarding the assault. It is not a fact that the petitioner and the informant were on inimical terms. Rather altercation took place during *Panchayati* and the alleged occurrence took place. It is obvious that the occurrence took place in a spur of moment and there was no repetition of blow to bring the offence of this petitioner into the category of murder under Section 302 of the Indian penal Code. The injury also shows a linear injury on the parietal bone of head and the death occurred after two days of assault. So, it cannot be said that the petitioner with an intention and knowledge made assault on the son of the informant causing his death. The charge sheet has been submitted in this case and the petitioner is in custody since 22.04.2021 and is having clean antecedent.

Learned APP as well as learned counsel for the informant opposes the prayer for bail submitting that there is specific allegation against the petitioner that he hit on the head of the son of the informant with *khanti* and the post mortem report also shows an injury on the head of the son of the informant which proved fatal. It has also been submitted by the learned counsel that the witnesses in the case diary have



supported the prosecution story and they are consistent in their statement.

Perused the records.

It appears that the allegation against the petitioner is that he hit on the head of the son of the informant which, later on, caused his death. It is a truism that a reasonable man will know the consequences of his act and if a person hit on the head of another with an iron '*Khanti*' he is presumed to have the knowledge that his act might cause death. Even though intention might not be there, but then it is an act which in all likelihood might have caused death. So I do not think the act of the petitioner would be made any less graver due to mitigating circumstances.

In view of specific allegation against the petitioner, I am not inclined to enlarge the petitioner on bail at this stage.

Accordingly, his prayer for bail is rejected.

However, learned trial court is directed to expedite the trial and conclude the same within a year.

(Arun Kumar Jha, J)

V.K.Pandey/-

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