

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55888 of 2022

Arising Out of PS. Case No.-21 Year-2022 Thana- BUDHUCHAK District- Bhagalpur

ALI HASSAN @ MD ALI HASSAN Son of Late Md. Amruddin Resident of
village- Pakara @ Ekdara, P.S- Budhuchak, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha

For the Opposite Party/s : Mr.Rana Randhir Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 16-12-2022 Heard learned counsel for the petitioner and
learned A.P.P. for the State in virtual court proceeding.

The petitioner seeks bail in connection with
Budhuchak P.S. Case No. 21 of 2022 registered for the
offences punishable under Sections 147, 149, 341, 323, 325,
307, 448, 379, 504, 506 of the I.P.C and later on Section
302 of the I.P.C.

As per prosecution case, the informant unfolded
the story in three parts, in first part the co- accused persons
began to abuse and when same was protested as result of
which they started assaulting informant and when
informant's son came for rescuing the co-accused Md. Arif
assaulted him as a result of which he sustained injury on



head and in later portion of the FIR, it is alleged that petitioner and other entered into the house of informant and they concertedly assaulted.

Learned counsel for the petitioner submits that petitioner is in custody since 03.05.2022 and bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that from the perusal of FIR it appears that at best the petitioner is member of mob and he is not assailant of the informant(since deceased). There is no specific overt-act attributed against the petitioner. He further submits that doctor has handed informant (Samsaad Shekh) to the police in connection with Annexure-II of bail petition and while he was in police custody, his health got deteriorated and after a lapse of about twenty two days of alleged occurrence i.e. on 26.05.2022, he died at P.M.C.H Patna in view of the matter this case will not come under purview of Section 302 and at best Section 304(ii) of the IPC is made out as there is case and counter case between both the parties on same date of occurrence and free fighting cannot be ignored.



The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, no specific overt-act attributed against the petitioner, keeping in view clean antecedent of petitioner, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. XV, Bhagalpur in connection with Budhuchak P.S. Case No. 21 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground



for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

vashudha/-

U		T	
---	--	---	--

