

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71669 of 2021

Arising Out of PS. Case No.-110 Year-2021 Thana- PAHARPUR District- East Champaran

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Hazrat Mian, S/O Sukhari Mian R/O Village- Siswa, Maldahiya, P.S.-
Paharpur, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Patanjali Rishi

For the Opposite Party/s : Mr. Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

6 21-11-2022 Heard Ld. counsel for the petitioner and learned

APP for the State.

The petitioner seeks bail in connection with

Paharpur P.S. Case No. 110 of 2021, registered for the

offences punishable under Sections 341, 323, 324, 307,

379, 504 and Section 34 of the Indian Penal Code.

The prosecution story as emerges from the FIR is

that on 15.05.2021 when the informant was sitting near the

gate of his house, the petitioner along with his associates

came there and started abusing him and the father of the

informant was also assaulted with iron rod resulting in

severe injuries. They had also stolen clothes, cash and



jewelery.

The learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that the petitioner has been languishing in jail since 05.09.2021. He also submits that the case is not supported by informant and injured persons in his deposition before Juvenile Justice Board. He has filed certified copy of the deposition of two witnesses, namely, Azhar Alam as well as Fateh Rasul Miyan.

It is also stated in paragraph no. 2 of the petition that the petitioner has not moved earlier before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the petitioner has no criminal antecedent.

However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail saying that the prosecution case is fully supported by medico-legal report as well as deposition given by the informant and the other victim before the Juvenile Justice Board and he has been languishing in jail only for about fourteen months.



Perused the material on record including the deposition given by the informant, Azhar Alam as well as another victim Fatheh Rasul Miyan. It is found that allegation of injury is supported by the medico-legal report and it has been found to be grievous in nature. Even in the aforesaid deposition, Azhar Alam has fully supported the case of the prosecution in the examination-in chief but only during the cross-examination he has said that due to dark night, he could not see who killed with what weapons. Similarly, in the examination in chief, another victim, Fateh Rasool Miyan has also supported the prosecution case, but during his cross-examination, he has stated that due the dark night he could not see who inured his father with what means. He also stated that he has compromised the case and does not want to proceed with the prosecution.

In view of the nature of allegation and the material in support of the same, I am not persuaded to enlarge the petitioner on bail.

The application stands rejected accordingly.

The learned counsel for the petitioner is directed to



remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

It is pertinent to notice that there is an allegation of causing grievous injury to the victim by the accused-persons and the accused-persons are facing trial under Section 307 and other Sections of the Indian Penal Code.

However, as emerges from the deposition of the witnesses before Juvenile Justice Board, the accused persons have entered into compromise with the accused-persons and do not want to proceed with the prosecution. Such conduct of the informant and the witnesses is serious in nature because they are trying to subvert the criminal justice delivery system. Non-compoundable offences are committed not only against the individuals but also against the society and hence, informant or witnesses are not allowed to compound such offence with accused persons.

Hence, in such situation, informant or other witnesses who may have indulged in compromise with the



accused persons with ulterior motives taking the Court for
ride must be prosecuted for perjury if the Trial Court finds
that they are lying before it.

(Jitendra Kumar, J)

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