

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11377 of 2023

Arising Out of PS. Case No.-115 Year-2020 Thana- KRITYANAND NAGAR District- Purnia

MD. ASFARUL, Son of Md. Niyamul, Resident of village- Amarpur, P.S.- K.
Nagar, District - Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-05-2023 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Ajit Kumar Singh, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with K. Nagar P.S. Case No. 115 of 2020 registered
for the offences punishable under Sections 341, 323, 307, 380,
504, 506/34 of the Indian Penal Code.

The prosecution case is based on the written report of
the informant, alleging therein that on account of some dispute
regarding filling of earth in her courtyard, co-accused Md.
Niyamul started abusing her. It is further alleged that thereupon
all the accused persons barged into her house and caught hold



her and her daughter. Further on the exhortation made by the co-accused Niyamul, this petitioner gave an iron blow over the head of the informant. It is also alleged that when her daughter came in rescue, the petitioner and co-accused Niyamul also gave iron rod blow to her daughter, due to which she sustained grievous injuries.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is non-else, but the own brother of the husband of the informant and only on account of the land dispute, a free fight took place between the family members, resulting into the injuries to the persons of both sides. Further submission has been made that so far the injuries sustained to the informant is concerned, the same is found to be simple in nature. The injuries sustained to the daughter of the informant, allegedly caused by the petitioner and Md. Niyamul, though the same has been found to be grievous in nature, but from the F.I.R. it is evident that the allegation of assault has been levelled against two persons. Moreover, co-accused Md. Niyamul, against whom there is also allegation of causing assault to the daughter of the informant, has been allowed the privilege of anticipatory bail by the learned coordinate Bench of this Court in Cr. Misc. No. 6688 of 2021 vide order dated 06.12.2021. He



lastly submits that the petitioner, having fair antecedent, is in custody since 25.08.2022.

On the other hand, learned APP for the State opposes the bail application and submits that specific allegation of assault has been levelled against the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the fact that one of the injury, which is attributed to the petitioner upon the informant is found to be simple in nature and so far the another injury, sustained to the daughter of the informant is concerned, the same is attributed to two of the persons, coupled with the period of custody and fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Purnea in connection with K. Nagar P.S. Case No. 115 of 2020, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.



(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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