

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18450 of 2023

Arising Out of PS. Case No.-322 Year-2019 Thana- SAHEBPUR KAMAL District-
Begusarai

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Mithilesh Yadav @ Mithilesh Kumar S/O Late Suresh Yadav R/O Village-
Bahloriya, P.S- Sahebpur Kamal, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Advocate

For the Opposite Party/s : Mr. Nawal Kishore Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 12-06-2023 Heard Mr. Pramod Kumar, learned counsel

appearing on behalf of the petitioner and Mr. Nawal Kishore

Prasad, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection
with S. Kamal P.S. Case No. 322 of 2019 dated 30.10.2019
registered for the offence punishable under Sections 341, 323,
307, 504 and 34 of the Indian Penal Code.

3. Prosecution story, in brief, is that the petitioner
along with others had assaulted the informant and his brother by
means of *lathi-danda* and belt due to which brother of the
informant sustained injury. The informant had also sustained
injury in the said occurrence.

4. Learned counsel appearing on behalf of the



petitioner submitted that so far as the allegation against the petitioner in the F.I.R. is concerned is that of calling the accused persons named in the F.I.R. by making a call from his mobile phone, upon which, all the accused persons named in the F.I.R. had assaulted the informant and his brother. There is no direct allegation of any assault to have been made against the petitioner. Petitioner has clean antecedent. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail. He submitted that from the impugned order it appears that it is the petitioner who had assaulted the informant on the head by means of *Khanti* and as such the petitioner does not deserve to be released on pre-arrest bail.

6. Having considered the rival submissions made by the parties as well as the allegation made in the F.I.R. it appears that informant, who is the eye-witness has alleged that the petitioner had called all the accused persons named in the F.I.R. by making a phone call from his mobile. There is no direct allegation of any assault has been made against the petitioner. Petitioner has clean antecedent. I am of the opinion that petitioner has *prima facie* made out a case to be released on pre-



arrest bail.

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Judge-cum- Additional Chief Judicial Magistrate, Ballia (Begusarai) in connection with S. Kamal P.S. Case No. 322 of 2019, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will loose its force automatically.

(Purnendu Singh, J)

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