

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48219 of 2022

Arising Out of PS. Case No.-401 Year-2020 Thana- JAMUI District- Jamui

MAHESH YADAV Son of Jamahir Yadav @ Jawahar Yadav Resident of
Village - Gidha Bukar, P.s.- Jamui, Distt.- Jamui.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Umesh Prasad, Advocate
For the Opposite Party/s :	Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 12-01-2023 Heard Mr. Yogesh Chandra Verma, learned Senior
Counsel for the petitioner and Mr. Jitendra Kumar Singh,
learned APP for the State.

The petitioner apprehends his arrest in connection
with Jamui P.S. Case No.401 of 2020 instituted under Sections
14, 148, 149, 341, 342, 323, 324, 325, 363, 307, 364, 302,
120B, 201, 506, 153A and 295A of the Indian Penal Code.

As per the prosecution story, the informant has
alleged that Akbar Khan came and told that in the evening of
07-08-2020 when he and Ibran Khan (deceased) were returning
to Jamui by motorcycle, they were intercepted by accused
persons including the petitioner herein and on the instigation of
female accused persons, both Akbar Khan and the deceased
were brutally assaulted in which role has been assigned to this



petitioner also that he assaulted the deceased.

The subsequent story is that Md. Akbar Khan managed to escape and on the next day, he narrated the whole story and later it was remoured that a beheaded body has been found which the family members accepted as that of Md. Ibran. Accordingly, the FIR was lodged.

Learned Senior Counsel for the petitioner submits that a bare perusal of the FIR would show that the accused persons have stated that they caught hold of two persons without naming them but Akbar Khan named each and every accused persons. Further as per the allegation, Akbar Khan was also brutally assaulted but there is no injury report of him and once he escaped, he failed to inform the family members/villagers so that the injured Md. Ibran Khan is also rescued. In the aforesaid backdrop, learned Senior Counsel submits that it is ironical that Md. Akbar Khan who should have been the main suspect has been made an eyewitness on the basis of which all the accused persons have been named.

Learned APP Mr. Jitendra Kumar Singh on the other hand submits that although there is force in the submission put forward by the learned Senior Counsel, in view of the fact that in the FIR the role has been assigned to this petitioner, so far as



his anticipatory bail is concerned, he does not deserves the same.

This Court finds force in the submissions put forward by learned Senior Counsel. The conduct of Md. Akbar Khan is suspicious and in the said backdrop, it is ironical that the police has not interrogated him, if the same has not been done. However, in view of the fact that a role has been assigned to this petitioner alleging that he assaulted Md. Ibran Khan (since deceased), this Court is unable to extend relief of anticipatory bail to him, which is accordingly rejected.

If the petitioner surrenders before the concerned court within four weeks from today, the court shall take into account all the aforesaid factors into account including additional documents which the petitioner may submit along with the bail petition and would disposed it of expeditiously preferably on the same day.

(Rajiv Roy, J)

Prakash Narayan /-

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