

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55264 of 2023

Arising Out of PS. Case No.-78 Year-2023 Thana- PATEPUR District- Vaishali

Rahul Rai @ Rahul Kumar, Son Of Shankar Rai Resident Of Village-
Bishanur Kowahi, Ps- Patepur, Distt- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate
For the State	:	Mr. Shyam Kumar Singh, A.P.P.
For the informant	:	Mr. Vasant Vikas, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 30-08-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel for the informant.

2. The petitioner seeks bail in connection with Patepur
P.S. Case No. 78 of 2023 dated 09.04.2023, instituted for the
offence punishable under Sections 302/34 of the Indian Penal
Code.

3. The prosecution case, in short, is that Mukesh
Kumar, son of the informant used to work at the clinic of Dr.
Vinod Rai. On 08.04.2023 at about 10.30 pm, when he was
returning to his home from the clinic, then at about 100 yards
ahead from the hut of Jamun Mahto, the petitioner along with
eight co-accused persons got down his son from his motorcycle
due to old enmity and one of the accused, namely, Vikash



Kumar assaulted his son with iron rod and other accused persons also assaulted his son with iron rod and lathi-danda, due to which his son sustained injuries. On hue and cry, the informant along with family members reached at the spot and thereafter the accused persons fled away. It is also alleged that Mukesh Kumar told to his family members that Vikash Kumar assaulted him with iron rod. Thereafter he was admitted to hospital, but he died on 09.04.2023 during the course of treatment.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. Learned counsel for the petitioner submits that specific allegation is against the co-accused, Vikash Kumar, who has assaulted the deceased by iron rod. Learned counsel for the petitioner submits that this allegation is also supported by the deceased in his dying declaration. Learned counsel for the petitioner submits that the allegation against the petitioner is general and omnibus. Learned counsel for the petitioner submits that earlier petitioner filed a case bearing Patepur P.S. Case No. 254 of 2022 under Section 341, 342, 379, 323, 504, 506/34 of the Indian Penal Code against six accused persons including the informant of the present case. Learned counsel for the petitioner



further submits that as per the F.I.R., deceased has disclosed the name of only co-accused, Vikash Kumar, and he has not disclosed that the petitioner was also present there. Learned counsel for the petitioner further submits that the name of the petitioner has been transpired in this case only on the basis of the admitted previous enmity. Lastly, it has been submitted that the petitioner is in custody since 11.04.2023 having one criminal case against the petitioner. Charge-sheet has been submitted in the case.

5. Learned A.P.P. as well as learned counsel for the informant has vehemently opposed the prayer for bail of the petitioner. Learned counsel for the informant submits that during investigation, one witness, namely, Vishun Kumar has deposed in his statement under Section 161 of the Code of Criminal Procedure that specific allegation of assault is against the Vikash Kumar, who assaulted the deceased by iron rod and petitioner and other accused persons assaulted the deceased by lathi-danda. It is further submitted that post-mortem report also supports the injury on the body of the deceased.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of



Rs. 10,000/- (ten thousand) with two sureties of the like amount
each to the satisfaction of the learned Judicial Magistrate- 1st
class, Vaishali at Hajipur, in Patepur P.S. Case No. 78 of 2023.

(Khatim Reza, J)

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