

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61471 of 2023

Arising Out of PS. Case No.-59 Year-2023 Thana- TURKAULIYA District- East Champaran

KRISHNA UPADHYAY SON OF RAM NARAYAN UPADHYAY
RESIDENT OF VILLAGE - CHARGAHAN, PS- TURKAULIYA, DISTT-
EAST CHAMPARAN, MOTIHARI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Narain Sinha, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 17-10-2023 1. Heard learned Counsel for the petitioner and
learned APP for the State.
2. This application, for grant of anticipatory bail,
arises out of Turkauliya PS case no. 59 of 2023, disclosing
offences punishable under Section 308 and other allied sections
of the Indian Penal Code.
3. As per the First Information Report, on the
instigation of co-accused namely Birendra Upadhyay, accused
Pawan Kumar assaulted the informant by means of iron rod
causing injury on the entire body of the informant. It has further
been alleged that when the informant fell down on the ground,
co-accused Pawan Kumar assaulted him by means of *lathi*
causing injuries on the hands and legs of the informant. The



allegation against the petitioner is that he assaulted the informant by fists and slaps.

4. Learned Counsel for the petitioner submits that both the parties are agnates and there is land dispute between them. It is further submitted that though FIR has been lodged under Section 308 of the Indian Penal Code, but during the course of treatment after 07 days of the occurrence, the informant succumbed to his injuries. It is next submitted that though the allegation against the petitioner is that he assaulted the informant by fists and slaps but the cause of death of the informant is not due to assault made by the petitioner by means of fists and slaps but assault made by co-accused Pawan Kumar, who has assaulted by iron rod and *lathi*. Petitioner is stated to be having clean antecedent.

5. Learned counsel for the informant has vehemently opposed the prayer for bail and submitted that the petitioner also assaulted the deceased leading to his death.

6. Regard being had to the submissions made on behalf of the parties and taking into consideration the fact that both parties are agnates, there is previous land dispute between them and the petitioner has only assaulted the informant by fists and legs, I am inclined to grant the privilege of anticipatory bail



to the petitioner.

7. This application is, accordingly, allowed.

8. Let petitioner, abovenamed, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran at Motihari in connection with Turkauliya PS case no. 59 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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