

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61871 of 2023

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

BHUSHAN KUMAR S/O BARA RAI R/O VILLAGE- VISANPUR
KOWAHI, PS. PATEPUR, DIST. VAISHALI

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Ms. Vaishnavi Singh, Adv. Mr. Purushottam Kumar, Adv.
For the State	:	Ms. Rina Sinha Mr. Akshay Lal Pandit, APP
For the Opposite Parties	:	Mr. Shrinandan Prasad Singh, Sr. Adv. Mr. Kumar Sameer, Adv. Mr. Atul Prakash, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 11-10-2023

1. Heard the parties.

2. The petitioner apprehends his arrest in connection with Patepur P.S. Case No. 78 of 2023 dated 09.04.2023 registered under Sections 302 / 34 of the I.P.C.

3. As per the first information report lodged by one Jagdish Rai on 08-04-2023 while his son was returning from his work at night at about 10:30 P.M. at a lonely place the co-accused / Vikash Kumar, Dayanand Rai, Sunita Devi, Kajal Kumari, Bhushan Kumar (petitioner), Lakhi Rai, Nitish Kumar, Rahul Rai and Santosh Ram pulled the informant's son down from his motorcycle due to old dispute and thereafter Vikash



Kumar assaulted him by means of iron rod on his head and rest of the accused persons also assaulted using iron rod, *danda* etc. On hearing noise, the informant along with his villagers and family members reached near the place of occurrence and saw that the accused persons including the petitioner started fleeing away on seeing the informant and others. The informant found his son in an injured condition soaked in blood and upon asking his son disclosed in a low voice that Vikash Kumar was saying since afternoon that he would kill him and at present assaulted him using iron rod and after saying this the informant's son became unconscious. He was taken for treatment by the informant with the help of family members and co-villagers at the Sadar Hospital, Hajipur from where he was referred to P.M.C.H. but for better treatment they got his son admitted in a private hospital namely, Samford Private Hospital, Patna where during treatment the informant's son died on 09/04/2023 at 8:00 A.M. The dead body was brought to village from Patna where Police took the body for post-mortem to Sadar Hospital, Hajipur.

4. Learned counsel for the petitioner submits that petitioner has falsely been implicated due to previous enmity on the basis of a concocted story. The occurrence has taken place



on 08-04-2023 but the F.I.R. has been lodged on 09/04/2023 in the afternoon at about 3:30 P.M. after the post-mortem of the deceased. There is no explanation regarding delay in lodging the F.I.R.

5. From perusal of the First Information Report it is evident that the informant alleged that on hearing the noise, the informant along with his family members and villagers reached at the place of occurrence and upon seeing them the accused persons fled away and the informant saw his son in injured condition and upon inquiry the son of the informant told that the co-accused/Vikash Kumar has assaulted him with iron rod and thereafter his son became unconscious. This shows that the informant was not an eye witness and his son informed that it was Vikash Kumar who assaulted him by means of iron rod. Either in the Government Hospital or in private hospital the *fardbyan* of the informant and / or any other person on his behalf was not recorded. In Government hospital or in private hospital once an injured is admitted for treatment, in the entry register as well as on bed head ticket the cause of injury is noted down and if it is the case of assault, the cause of injury as “assault” would be noted and in case of road accident it would be noted as “road accident” in the entry register. He further



argued that in case an injured is brought and admitted in any hospital either Government or private and if it is reported that it is a case of assault, the treating doctor immediately sends an O.D. slip to the nearest Police Station for recording the statement of the concerned person.

6. Upon perusal of the first information report it would be evident that no *fardbyan* was recorded either at Sadar Hospital, Hajipur or at Samford Private hospital, Patna which goes to show that at the aforesaid two places the informant or any person on his behalf did not disclose that the injured / deceased received injury caused by any assault. The allegation against the petitioner is general and omnibus in nature and he is having no criminal antecedent.

7. Regard being had to the submission made by the parties, taking into consideration the fact that allegation against the petitioner is general and omnibus in nature, *fardbyan* of the informant or any body else was not recorded in the hospital and the son of the informant before being unconscious did not disclose the name of the petitioner, as such, I am inclined to grant anticipatory bail to the petitioner.

8. Let the petitioner, above named, be released on anticipatory bail in the event of arrest or surrender before the



court below within a period of four weeks from today on furnishing bail bond of Rs. 10000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of Judicial Magistrate 1st Class, Vaishali at Hajipur in connection with Patepur PS Case No. 78 of 2023 subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anil Kumar Sinha, J)

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