

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66920 of 2022

Arising Out of PS. Case No.-179 Year-2020 Thana- KAKO District- Jehanabad

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Siyaram Sharma @ Siyaram Prasad S/o Bindeshwari Sharma R/o Village-
Murasa, P.S.- Kako (Bhelawar), Distt- Jehanabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the State	:	Mr. Sunil Kumar Sharma, Advocate
For the State	:	Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 27-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), if any, as pointed out by the office, within a period of four weeks from today.

Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner; Mr. Sunil Kumar Sharma, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kako (Bhelwar) P.S. Case No. 179 of 2020, registered for the offences punishable under Sections 341,323,504,506,302/34 of the Indian Penal Code.

The prosecution case is based on a written report of the informant alleging therein that on 31.08.2020 while the father of the informant was returning from his field in the



meantime the petitioner along with three other persons started assaulting him by means of sharp cutting weapon, rod, *lathi* and *danda* as a result of which he received injury and fell down. It is further alleged that when the mother of the informant went for his rescue she was also assaulted by them. Further allegation has been made that all the accused persons, including the petitioner, grabbed a piece of land of the informant.

Learned counsel appearing on behalf of the petitioner submits that from the FIR it would be evident that all the accused persons were lashed with sharp cutting weapon, *lathi*, *danda* and iron rod, however, no incised injury has been found during course of postmortem, apart from the fact that there is specific allegation of the informant that the deceased was assaulted by the petitioner and co-accused Manish Kumar over his head but the postmortem report suggests only one injury. He next submits that so far as the allegation with regard to the assault meted out to the mother of the informant, no injury has been found over her body. He further submits that in fact the informant is not an eye witness to the alleged occurrence however, only on account of past animosity due to land dispute this case been instituted implicating all the family members of the petitioner. He next submits that one of the co-accused



persons against whom also there was specific allegation of assault, he has been allowed the privilege of anticipatory bail by the learned co-ordinate bench, copy of which is annexed as Annexure-1 to the application. While concluding his submissions, it is lastly submitted that as the petitioner was pursuing his remedy before this Court in an anticipatory bail application, hence delay has caused.

On the other hand, learned counsel for the informant vehemently opposed the bail application and submits that there is specific allegation against the petitioner that he assaulted the deceased by means of hard blunt substance due to which grievous injury has caused and the deceased succumbed to the injuries, which is also corroborated by the postmortem report. He next submits that the accused persons also grabbed the land of the informant and in order to terrorise, they have committed such heinous crime and, moreover, charge-sheet has been submitted having found their complicity in the crime.

Learned counsel for the State also opposed the bail application.

Regard being had to the submissions made on behalf of the parties and considering the materials available on record, specifically the fact that the informant is not an eye witness to



the alleged occurrence and more so only one injury has been found over the head of the deceased, though the allegation has been levelled against two of the persons of causing assault over the head, apart from the fact that the petitioner having fair antecedent is in custody since 21.09.2022 and the charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate 1st, Jehanabad in connection with Kako (Bhelawar) P.S. Case No. 179 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.



The Court would expect that the trial court will take
all possible endeavours to expedite the trial.

The application stands disposed of.

(Harish Kumar, J)

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