

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66208 of 2022

Arising Out of PS. Case No.-197 Year-2021 Thana- PUNAURA District- Sitamarhi

Ritesh Kumar Son of Kameshwar Mishra @ Kamesar Mishra R/O Vill.-
Dharhari, P.S.- Chiraiya, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Shashi Bhushan Pandey, Advocate
For the Opposite Party/s : Mr. Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 04-04-2023 Heard learned counsel for the petitioner, learned counsel
for the informant and the learned APP for the State.

It is submitted by learned counsel for the petitioner that the soft copy of the supplementary affidavit has been filed and permission is required to file the hard copy of the said supplementary affidavit.

Permission is accorded. The said hard copy is directed to be taken on record.

Petitioner seeks regular bail in connection with Punaaura P.S. Case No. 197 of 2021 dated 06.12.2021 registered for the offences punishable under Sections 341, 448, 307 and 34 of the Indian Penal Code.

As per the prosecution, the informant's husband was assaulted by this petitioner by means of dagger alongwith his associate who fled from the place of occurrence after

committing the alleged offence. Further it is alleged that this petitioner also tried to assault the informant.

The main submissions advanced by learned counsel for the petitioner are that as per the FIR the alleged occurrence took place on 03.12.2021 in the night at 12:40 AM and the victim who happens to be husband of the informant was medically examined on 04.12.2021 at 02:00 AM, 26 hours after the commission of the alleged occurrence and as per the medical opinion the said victim sustained injury within one hour from the time of the examination, which creates a serious contradiction with regard to the time and date of the alleged occurrence as mentioned in the FIR and as per the informant the petitioner used knife in causing injury to her husband but as per injury report the informant's husband sustained lacerated injury on left side of chest which is also not corroborative to the nature of the weapon which was allegedly used by this petitioner. Further submission is that admittedly in between the petitioner and prosecution party, two more cases are also running in addition to the present case and the said cases have been lodged by the informant's side, so enmity is also at an elevated position in between both the parties and the FIR was lodged after delay which also creates suspicion regarding the truthfulness of the

prosecution's story and the petitioner has been languishing in jail for about one year and he has been chargesheeted.

Learned counsel for the informant and the learned APP for the State have opposed the bail prayer.

Heard both the sides and perused the FIR and injury report of the informant's husband, who is stated to be the sole injured, filed on behalf of the petitioner. As per the FIR the alleged incident took place on 03.12.2021 in the night at 12:40 AM and accordingly the date of incident changed but the informant mentioned the said date as 03.12.2021 in the FIR and if the said fact is taken into account then the time and date of the alleged occurrence suggesting from in the injury report supports the time and date of occurrence mentioned in the FIR, though as per the injury report, the informant's husband sustained lacerated wound but admittedly he sustained injury on his chest and the same has been found grievous in nature and admittedly there was not a good relation in between both the parties when the alleged occurrence took place and the informant claimed herself to be the eyewitness of the alleged occurrence. In the light of these facts, in my opinion, it is not a fit case for bail to the petitioner, accordingly his bail prayer stands rejected.

The petitioner may renew his bail prayer after the

examination of informant’s husband in his trial, if in the next six months the victim is not produced in his trial as witness then the petitioner may also renew his bail prayer.

(Shailendra Singh, J)

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