

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73864 of 2023

Arising Out of PS. Case No.-26 Year-2023 Thana- BIRUPUR District- Lakhisarai

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Devan Mahto Son Of Dasrath Mahto Resident Of Village - Turkaijani, P.S. -
Birupur, District - Lakhisarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh, Advocate

For the Opposite Party/s : Mr. Braj Kishore Pd., APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

2 09-11-2023 Heard Mr. Rajive Ranjan Singh, learned counsel for
the petitioner as well as Mr. Braj Kishore Prasad, learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Birupur P.S. Case No.26 of 2023, F.I.R. dated
16.05.2023 registered for the offence punishable under Sections
147, 148, 149, 323, 341, 307, 504, 506/34 of the Indian Penal
Code.

3. The prosecution case, in short, is that on
15.05.2023 at about 09.00 PM in the evening named accused
persons in the FIR armed with deadly weapon as *lathi*, rod,
brick, stone were sitting in the 'Samudaik Bhawan' in order to



kill the informant. Further, the informant returned back his home after attending the 'Bhoj' party, at that time the accused person, namely, Shankar Mahto assaulted the informant Umesh Mahto on his head with rod resulting which his head was broken. Arvind Mahto and Sanjay Mahto came to rescue him then all named accused persons assaulted with *lathi* and brickbats due to which Sanjay Mahto received nose injury and Arvind Mahto received head injury and they also snatched the mobile of Sanjay Mahto. On hulla, villagers came there to solve the matter and injured were brought to the hospital.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent. He has falsely been implicated in the present case. He further submits that the FIR is in two parts, in first part there is specific allegation of assault is attributed against the co-accused person namely, Shankar Mahto and in the second part there is general and omnibus allegation against all the accused persons including the petitioner. Further submits that there is case and counter case between the parties in which both the sides have received injuries and the injury report of the informant's sides suggests that the injuries are simple in nature.

5. Learned APP for the State, on the other hand



vehemently opposed the prayer for anticipatory bail of the petitioner.

6. Considering the aforesaid facts, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai in connection with Birpur P.S. Case No.26 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(i) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bonds shall be cancelled by the Court below.

(ii) If the petitioner tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of anticipatory bail.

(iii) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at



any stage, it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for cancellation of anticipatory bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

Prakash Narayan

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