

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71895 of 2022

Arising Out of PS. Case No.-78 Year-2020 Thana- GANGABRIDGE District- Vaishali

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MOHAN KUMAR @ MOHAN KUMAR SINGH SON OF SHIVJI SINGH
R/O VILLAGE- SAHDULLAHPUR, P.S.- GANGA BRIDGE, DISTRICT-
VAISHALI (BIHAR)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Adv. Mr. Anand Prakash, Adv.
For the Opposite Party/s	:	Mr. Choubey Jawahar, APP
For the Informant	:	Mr. Manoj Kumar No.1, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 17-05-2023 Heard Mr. Yogesh Chandra Verma, learned Senior

counsel for the petitioner, Mr. Manoj Kumar No.1, learned

counsel for the informant and Mr. Choubey Jawahar, learned

Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
30.09.2022, in connection with Ganga Bridge P.S. Case No.
78/2020, F.I.R. dated 15.09.2020, for the offences punishable
under Sections 341, 323, 307, 386, 504, 506 and 34 of the IPC
but later on Section 302 of the IPC was added.

According to prosecution case, the petitioner along
with other co-accused persons assaulted the husband of the
informant, due to which, he sustained injury and later



succumbed to the injury.

Earlier, the petitioner was granted anticipatory bail vide order dated 07.03.2022 passed in Cr. Misc. No. 30197/2021. The informant has challenged the said order in Cr. Appeal No. 1661/2022 (arising out of SLP (Crl) No.6987/2022), which was heard by the Hon'ble Apex Court on 07.03.2022 and after hearing the parties, the Hon'ble Apex Court have been pleased to set aside the order dated 07.03.2021 passed in Cr. Misc. No.30197/2021 with the direction to the petitioner *"to surrender before the competent Court within a period of two weeks from the date of this order and grant him liberty to apply for regular bail. Such an application shall be considered by the Sessions Judge in accordance with law."* Pursuant to the order of the Hon'ble Apex Court, the petitioner has surrendered before the Court below on 30.09.2022.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case due to admitted land dispute between the parties. He further submits that from bare perusal of the F.I.R. it transpires that the specific allegation of assault is attributed against the co-accused, namely, Sohan Kumar. He further submits that the F.I.R. is in two parts. In first part, there



is specific allegation of assault against the co-accused, namely, Sohan Kumar, who assaulted with spade blow upon the husband of the informant and in second part there is general and omnibus allegation against all the accused persons including the petitioner and the postmortem report of the victim has not corroborated the allegation as alleged in the F.I.R. He further submits that there is no specific allegation of any assault or overt act attributed against the petitioner. He further submits that the co-accused person, namely, Sohan Kumar @ Sohan Kumar Singh, against whom the allegation of assault is attributed, has been granted bail by Co-ordinate Bench of this Court vide order dated 21.10.2021 passed in Cr. Misc. No.33483/2021 and the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 30.09.2022.

Learned counsel for the informant as well as learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that the petitioner has also assaulted the husband of the informant and there is multiple ante-mortem extended and internal injuries were found on the body of the deceased.

Considering the aforesaid facts that the petitioner has clean antecedent and there is no specific allegation of assault or



overt act attributed against the petitioner rather the specific allegation of assault is attributed against the co-accused, namely, Sohan Kumar @ Sohan Kumar Singh, who has been granted bail by the Co-ordinate Bench of this Court and the police after investigation, submitted the charge sheet against the petitioner, let the petitioner, above named, 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 Sri Abhishek Kumar, J.M.1st Class, Vaishali at Hajipur, in connection with Ganga Bridge P.S. Case No.78 of 2020, subject to the following conditions:-

1. 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 bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. 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 antecedent, the court below shall take step for cancellation of 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)

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