

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 44819 of 2024

Arising Out of PS. Case No.-161 Year-2023 Thana- KUMAR KHAND District- Madhepura

Md. Rahman Son of Late Md. Mahfooz @ Mahfuj Alam @ Late Md. Mahfuj
R/o village - Yaduapatti, P.S.- Kumarkhand, District - Madhepura
... .. Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s :	Mrs. Nafisuzzoha, Advocate
For the Opposite Party/s :	Mr .Uday Chand Prasad, APP
For the Informant :	Mr. Ranjay Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 05-07-2024 Heard learned counsel for the petitioner as also the

State and the informant.

2. The petitioner is in judicial custody in connection with Kumarkhand P.S. Case No. 161 of 2023 for the offence punishable under sections 341, 323, 307, 506/34 of the I.P.C. lodged on 05.05.2023 by the informant, Afsana Khatoon.

3. As per the prosecution story, the lady/informant has lodged the FIR stating that her eleven years old son went missing and later, she was informed by the villagers that he has been found in an injured/unconscious condition on the roof of the flood relief building. She went there and found him to be seriously injured, taken to hospital, firstly to Kumarkhand and later to Madhepura for proper treatment. Upon inquiry, her son disclosed the names of Md. Sahil, Md. Firoz and Md. Sahid as there was an old enmity with Md. Firoz.

4. Learned counsel for the petitioner submits that a bare perusal of the FIR would show that at first instance, the



child took the name of Md. Sahil, Md. Firoz and Md. Sahid and the enmity has also shown to be with Md. Firoz. Subsequently, he bettered his statement under 164 Cr.P.C. in which, he dragged the name of this petitioner assigning two roles, firstly that he was having his knife in his hand and later of assaulting with rod. She submits that it is an afterthought only to implicate him. The last submission is that the petitioner do not have any criminal antecedent and will be diligently appearing in trial, if released on bail.

5. Learned counsel appearing on behalf of the informant on the other hand submits that a child has been brutally assaulted and he has photograph to show that he has suffered multiple injuries.

6. Learned APP also supports the case and submits that the child again named him under section 164 of the Cr.P.C.

7. The FIR was lodged by the mother of the victim child, it is her specific statement in the FIR that upon query from her son, he gave the name of Md. Sahil, Md. Firoz and Md. Shahid to be assailant and 3-4 persons and at that point of time, the petitioner was not named. Further, he has alleged that the petitioner having knife in his hand but further has alleged that he was assaulted by rod.



8. In that background, when earlier the petitioner was not named in the FIR lodged by the mother after making query from her son, though the child has suffered injury, the name of the petitioner has come subsequently, is in custody since 28.03.2024 (as stated in paragraph 15 of the petition), do not have criminal antecedent and Md. Firoz as also Md. Sahil who are named in the FIR have been granted bail in Cr. Misc. No. 72603 of 2023 and Cr. Misc. No. 75349 of 2023 respectively and will be diligently appearing in trial as per the undertaking, this Court is inclined to extend him the privilege of bail with strict conditions.

9. Learned counsel for the informant has alleged that those who are out on bail, are threatening the informant side for which necessary steps have been taken by informing the concerned police/superior officials and the informant also intends to file cancellation of bail against them. This Court makes it clear that if the petitioner resort to the same act, as is being alleged regarding others who have been granted bail, he will have to face serious consequences.

10. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned A.D.J.-VIII,



Madhepura, in connection with Kumarkhand P.S. Case No. 161 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month till trial is over to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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