

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64619 of 2023

Arising Out of PS. Case No.-243 Year-2023 Thana- MINAPUR District- Muzaffarpur

1. Sanjay Ray Son Of Late Rajnandan Ray R/O Village- Repura, Po And Ps-
Minapur, Panapur (OP), Dist- Muzaffarpur
2. Birendra Ray Son Of Late Rajnandan Ray R/O Village- Repura, Po And Ps-
Minapur, Panapur (OP), Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar

For the Opposite Party/s : Mr.Uday Chand Prasad

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

8 23-07-2024 1. Heard learned counsel for the petitioners, learned

A.P.P. for the State and the learned counsel for the informant.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 341, 323, 506, 384, 504, 307, 325, 379, 302 and 34 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that it would be a travesty of justice in the event if the anticipatory bail application is rejected merely on the ground that there is an allegation against the petitioners of assaulting the deceased which led to his death subsequently. The learned counsel next submits that the easiest way to deal with this anticipatory bail



application is to reject it at the outset in the nature of allegations as alleged and in view of the submission made by the learned counsel appearing on behalf of the OP No.2 that petitioners are the main assailants of the deceased, but then that would not serve the purpose of justice as liberty of a person cannot be fettered except in accordance with the procedure established by law.

4. It is next submitted that when the case was taken up on 18-3-2024, a detailed order was recorded. It is also submitted that informant, who is father of the deceased, alleges that on 9-6-2023, the *fardbeyan* of his son was recorded by a police personnel of Ahiyapur Police Station, wherein he had alleged that on 29-5-2023, at 10 a.m., while he was in his *litchi* orchard, when Sanjay Ray and Birender Ray (petitioners) came and demanded extortion of Rs. 20,000/-, further, on 31-5-2023, at 10-30 a.m., while the informant was involved in packaging of *litchi* for taking it to *Kanti*, when it is alleged that the accused persons came and Sanjay Ray assaulted his son by an iron rod causing injury on head, thereafter, Birender Ray also assaulted by a rod on head causing injury, thereafter, both the petitioners assaulted fracturing both the hands and even pierced the iron rod with an intention to kill, and also took Rs. 19,000/- along with



mobile and fled leaving the injured in an injured condition, thereafter, the police was informed and the injured was taken to *Kanti* PHC, from where he was referred to SKMCH, Muzaffarpur.

5. The learned counsel submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the injured was assaulted brutally by the petitioners leading to injuries and they fled leaving him in an injured condition, when police came and took him to *Kanti* PHC from where he was referred to SKMCH. It is next submitted that it absolutely does not stand to reason that if the occurrence took place on the 31-5-2023, then why *fardbayan* of the son of the informant was recorded on 9-6-2023, when it is the case of the injured in his statement before the police that it was police who took him to *Kanti* PHC from where he was referred to SKMCH. It is submitted that this amply demonstrates that the police never came at the place of the occurrence or else his *fardbayan* would have been recorded. It is next submitted that even after *fardabyan* of the injured was recorded on 9-6-2023, still the FIR was not instituted and the instant FIR came to be instituted on 14-6-2023 based on the *fardhbyan* of the father of the injured, as such, for the same occurrence, there are two versions; one of the



injured and other of the father, but then the father of the injured also relies on the *fardhbyan* of his son.

6. The learned counsel further submits that a plea was taken when the case was taken up earlier on 18-3-2024 that petitioners have been falsely implicated for the reason that there was business rivalry in between the petitioners and the informant with respect to trade of *litchi* and the injured was caught by a mob as he tried to outrage modesty of a girl on which he was brutally thrashed and the business rivalry which was prevailing from before was taken as an opportunity to implicate the petitioners in the instant case.

7. It is also submitted that when the case was taken up on 18-3-2024, the Senior Superintendent of Police Muzaffarpur and the Superintendent, SKMCH were directed to file their counter-affidavit.

8. It is also submitted that a counter-affidavit on behalf of the aforesaid authorities have been filed. It is next submitted that the Senior Superintendent of Police accepts the fault of the police to the extent that *fardabayan* of the injured was recorded on 9-6-2023 and the FIR came to be instituted belatedly on 14-6-2023, but then submits that it is not the case of the Senior Superintendent of Police that the police was



informed about the occurrence on the date of occurrence and the police did not go to record the *fardabayan* of the injured. It is also submitted that if, as alleged in the FIR, the police had taken the injured to Kanti PHC from where he was referred to SKMCH, then why his *fardabayan* was not recorded. It is also submitted that a plea was taken by the learned counsel appearing on behalf of the OP No. 2 as recorded in the order dated 18-3-2024 that *fardabayan* of the injured could not be recorded for the reason that he remained unresponsive and unconscious from 31-5-2023 till 9-6-2023 and it was only after he regained consciousness that his *fardabayan* was recorded by Ahiyapur Police Station. The said submission of the learned counsel appearing on behalf of the OP No. 2 is rebutted by the learned counsel appearing on behalf of the petitioners, placing reliance on the counter-affidavit filed on behalf of the Superintendent, SKMCH, wherein it has been recorded that when the injured was admitted in the hospital at that time, he was not unresponsive nor was unconscious, rather was having proper consciousness and after treatment, he was also discharged from the hospital and was asked to come back for re-checkup in the event if need arises. It is thus submitted that the injured was not in an unconscious state nor was unresponsive,



but then neither the hospital nor any family members of the injured informed the police about the occurrence as is being alleged in the FIR that the injured was brutally assaulted, which amply demonstrates that the occurrence took place in some other manner and the petitioners came to be implicated subsequently by way of afterthought, or else the father of the injured would have informed the police at the earliest. It is also submitted that had the injured been admitted in a condition where his condition would have been critical, then for a moment it could have been thought that family members of the injured were not in a position to inform the police rather were interested in getting the injured treated but then that was not the case.

9. Learned A.P.P. for the State and the learned counsel appearing on behalf of the informant oppose the prayer for anticipatory bail of the petitioners but then learned counsel appearing on behalf of the OP No. 2 does not dispute the averments made in the counter-affidavit filed on behalf of the Superintendent, SKMCH that injured was in a proper frame of mind and was not unresponsive and unconscious.

10. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned trial court



within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Minapur P.S. Case No. 243 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

SUMIT/-

U		T	
---	--	---	--

