

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77980 of 2023

Arising Out of PS. Case No.-482 Year-2023 Thana- HARSIDHI District- East Champaran

Md. Kaif Alam @ Kaif Saifi @ Md. Kaif S/o Mohammad Kaimuddin Saifi
R/o Village- Chadahiya, PS. Harsidhi, Dist. East Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Advocate
For the Informant	:	Mr. Tauquer Azhar, Advocate
For the Opposite Party/s	:	Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 10-01-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Harsidhi P.S. Case No. 482 of 2023 registered for the offences punishable under Sections 341, 323, 302, 504 and 34 of the Indian Penal Code. He has got no criminal antecedent.

3. Learned counsel for the petitioner submits that the petitioner is a nineteen years old boy who is a student at Dehradun pursuing his B.Pharm course and has been falsely implicated in this case. It is his submission that in the FIR thirteen persons have been named and fifteen-twenty unknown persons are made accused. It is alleged that altogether thirty



three persons had assembled at the house of the informant in the midnight, started abusing the informant and at the instance of one co-accused Md. Zikrullah Miyan, the accused persons started assaulting the informant along with Md. Arshad by *lathi*, iron rod, etc. It is alleged that because of the assault, the grandson of the informant fell down and became unconscious. He was taken to hospital where he was declared dead. It is alleged that these persons were involved in the murder of the son of the informant.

4. Learned counsel for the petitioner submits and the same has not been controverted by the learned counsel for the informant that so far as this petitioner is concerned, he was not an accused in the murder case of the son of the informant.

5. Learned counsel submits that on a bare perusal of the FIR it would appear that there is no allegation that this petitioner was lashed with any specific arm and further no overt act has been alleged against him. The postmortem report would show only three injuries on the body of the deceased which would indicate that the allegation of causing assault by thirty three persons is nothing but a case of over implication of the accused.

6. Learned A.P.P. for the State and learned counsel for



the informant have opposed the prayer for anticipatory bail of the petitioner. It is submitted that the petitioner is named in the FIR and recently on 08.01.2024, the learned court below has ordered for issuance of process under Section 82 of the Cr.P.C. against him.

7. Having regard to the facts and circumstances of the case, wherein so far as this petitioner is concerned, he is said to be a student, no specific arm has been attributed in his hand and there is no allegation of causing overt act against the petitioner, in the FIR altogether thirty three persons have been made accused including fifteen-twenty unknown persons and the co-accused similarly situated namely Md. Zikrullah, Munni Khatoon and Jarina Khatoon, who are petitioners in Cr. Misc. No. 76758 of 2023 and Cr. Misc. No. 76526 of 2023, have been granted privilege of pre-arrest bail and further that Section 82 Cr.P.C. process has been ordered only day before yesterday while his anticipatory bail application is pending since 24.11.2023, this Court directs that in case of his arrest or surrender within a period of four weeks from today, the petitioner above named be released on bail in connection with Harsidhi P.S. Case No. 482 of 2023 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties



of the like amount each to the satisfaction of learned Judicial Magistrate-I, Motihari, East Champaran subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

8. 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.

9. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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