

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65391 of 2024

Arising Out of PS. Case No.-165 Year-2024 Thana- BAJPATTI District- Sitamarhi

Upendra Sah son of Late Shibu Sah Resident of Village- Madhurapur, Ward No.11, P.S. -Bajpatti, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ayush Kumar, Advocate
For the Opposite Party/s : Mr. Satendra Narayan Singh, APP
For the Informant : Mr. Birendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 10-01-2025 Heard the learned Advocate for the petitioner, learned Advocate for the informant and the learned APP for the State.

2. The petitioner apprehends his arrest in connection with Bajpatti P.S. Case No. 165 of 2024, registered for the offences punishable under Sections 341, 323, 324, 307, 379, 385, 504 and 506/34 of the Indian Penal Code.

3. While the informant was at his house, in the meantime, all the FIR named accused persons variously armed came and started abusing the informant. On protest being made, co-accused *Ramnath Sah* inflicted *dabia* blow to the son of the informant on his head. It is specifically alleged that the petitioner assaulted the nephew of the informant by means of iron rod and also hurled stones, due to which *Manoj Kumar* as



well as others have sustained injuries. There is further allegation against other accused persons.

4. Learned Advocate for the petitioner contended that the genesis of the occurrence is a land dispute, giving rise to Partition Suit No. 32 of 2017, pending before the learned Munsif Magistrate, Pupri between both the parties and just before the occurrence, an order with regard to the mutation has been passed in favour of the petitioner's side, which gave a fresh cause of action to the informant's side to enter into a free fight. There is a counter version of the present case being Bajpatti P.S. Case No. 171 of 2024 lodged by the wife of the co-accused *Ramnath Sah*. In the said occurrence, the petitioner has sustained grievous injuries. The copy of the injury report has been brought on record by way of supplementary affidavit. Referring to the aforesaid facts, it is contended that in fact both the parties have entered into a free fight, resulting into injuries to person of both the sides, however, the prosecution has failed to explain the injury sustained to the petitioner and others.

5. Drawing the attention of this Court to the injury report, learned Advocate for the petitioner further contended that out of three injuries, one of the injury has been found to be grievous in nature, but from the FIR, it is evident that there is no



repetition of blow. So far the criminal antecedent of the petitioner, as has been disclosed in paragraph no. 3 of the bail application, it is contended that the same has also been instituted by the husband of the informant and there was a counter case from the petitioner's side, which also suggest the long standing dispute between the parties. Taking note of all the aforesaid facts, two of the co-accused person, namely, *Kishori Sah* and *Baidyanath Sah*, has been accorded the privilege of anticipatory bail by this Court in Cr. Misc. No. 58043 of 2024 vide order dated 05.10.2024.

6. On the other hand, learned counsel for the State and the informant opposed the pre-arrest bail application and submits that specific allegation has been levelled against the petitioner of causing assault by means of iron rod, which is grievous in nature. The petitioner is in the habit of committing crime, as earlier also, he was made accused in connection with Bajpatti P.S. Case No. 122 of 2016.

7. Regard being had to the submissions made on behalf of the parties and considering the genesis of the occurrence and the factum of the grievous injury sustained to the petitioner also, resulting into case and counter case and the submissions made on behalf of the petitioner that the accused of



the counter case have been allowed the privilege of police bail, coupled with the fact that the similarly situated co-accused persons have also been allowed the privilege of anticipatory bail by this Court in Cr. Misc. No. 58043 of 2024 vide order dated 05.10.2024, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st (P) Sitamarhi in connection with Bajpatti P.S. Case No. 165 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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