

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77888 of 2024

Arising Out of PS. Case No.-17 Year-2024 Thana- RAMGARHWA District- East Champaran

Arjun kumar S/O Prabhu Sah R/O Village- Kaswa Tola, P.S- Ramgadhwa,
Distt.- East Champaran, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prince Kumar Mishra

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 07-02-2025 1. Heard learned counsel for the petitioner and learned A.P.P. for the State, Shri. Chandra Bhushan Prasad.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 447, 448, 341, 323, 308, 504 and 34 of the Indian Penal Code.
3. The Investigating Officer of the case along with the Station House Officer, Ramgadhwa police station, in compliance of the order dated 31-1-2025, are present in the Court.
4. Learned counsel for the petitioner submits that petitioner and Hirdesh Kumar had earlier approached this court seeking anticipatory bail by filing Cr. Misc No. 37862 of 2024 and the same was disposed of by an order dated 3-7-2024 in terms of the order dated 13-2-2024 in Cr. Misc No. 3536 of



2024 (Naushad Ansari vs. the State of Bihar). The learned counsel next submits that Cr. Misc No. 37862 of 2024 was disposed in terms of the order dated 13-2-2024 in Cr. Misc No. 3536 of 2024 (Naushad Ansari vs. the State of Bihar) for the reason that the offences for which the instant FIR was instituted was with respect to offences carrying punishment of less than seven years.

5. It is next submitted that Hirdesh Kumar in compliance of the order dated 3-7-2024 in Cr. Misc No. 37862 of 2024 had filed a representation for availing the said benefit, but then he was arrested on the ground that during the course of investigation, it was found that the injured had suffered three injuries, out of which one injury is opined to be grievous. It is further submitted that petitioner was not aware that what transpired during the course of investigation, but then the FIR did not even remotely suggest that Section 307 of the IPC was also added.

6. It is next submitted that since this Court had disposed of the aforesaid anticipatory bail application in terms of the order dated 13-2-2024 in Cr. Misc No. 3536 of 2024, in that event the Investigating Officer ought to have shown respect to the orders of this Court and if he intended to



arrest Hirdesh Kumar, in that event he ought to have sought permission of the learned Magistrate before arresting him but then the said procedure was not adopted. It is also submitted that this gives unbridled power to police to arrest whenever they feel like. Learned counsel next submits that till date based on the supervision Section 307 IPC has not been added in the FIR, when it is being submitted by the S.H.O that the supervision was done in the month of February 2024.

7. It is next submitted that though petitioner is alleged to have assaulted the injured by *farsa* causing injury on head, but then the injury report belies the said allegation for the reason that that the wound was found to be lacerate, when it is being alleged that the petitioner assaulted by a sharp-edged weapon. It is also submitted that earlier when the FIR was instituted, the concerned official of the concerned P.S had instituted the case under Section 308 of the IPC and not under Section 307 of the IPC, and if during the course of investigation any material transpired which necessitated addition of Section 307 of the IPC, in that event the said section ought to have been added in the FIR based on an application filed by the police, but then the same was not done, which casts an aspersion on the conduct of the police.



8. The S.H.O and the Investigating Officer of the case, who are present in the Court, accept that till date in the FIR, Section 307 of the IPC has not been added.

9. The learned APP also is not in a position to rebut the said submissions of the learned counsel appearing on behalf of the petitioner.

10. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his 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) 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 Ramgadhwa P.S. Case No. 17 of 2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

11. The personal appearance of the S.H.O, Ramgadhwa police station and the Investigating Officer of the case is dispensed with.

(Satyavrat Verma, J)

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