

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85102 of 2024

Arising Out of PS. Case No.-194 Year-2024 Thana- SAMASTIPUR District- Samastipur

Bittu Kumar S/O Kumod Choudhary Resident of Mohalla- Barah Pathar, P.S-
Town, District- Samastipur, Permanent resident of Village- Bhadaia, P.S-
Mohiuddin Nagar, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Adv Mr. Bijay Bhushan Prasad, Adv. Ms. Rani Shashi Bharti, Adv
For the Opposite Party/s :		Mr.Sanjay Kumar Tiwary
For the Informant		Mr. Ashok Kumar Choudhary Sr, Adv. Mr. Ujjwal Kumar , Adv

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 02-05-2025 Heard Mr. Yogesh Chandra Verma learned senior
counsel for the petitioner, Mr. Ashok Kumar Choudhary learned
senior counsel for the opposite party and the State.

2. Petitioner apprehends his arrest in connection with
Town P.S.Case No. 194 of 2024 registered for the offences
punishable under Sections 126(2), 115(2), 352, 109(1), 304(2),
308(5), 61 (2) of the B.N.S.S and sections 66 and 72 of the
Information & Technology Act.

3. The FIR discloses an allegation that on 04.09.2024 the
son of the informant was taken away by the petitioner Bittu
Choudhary along with two other unknown persons on a
motorcycle and was taken to a hotel where he was badly



assaulted with leather belt and further his clothes were taken out and a cigarette butt was being stubbed at different places of his body. It has further been stated that an audio and video clip of the entire incident was also prepared and a mobile phone of the informant's son worth Rs. 25,000/- was also taken by the accused persons. Further allegation is that when such video came to the knowledge of the father of the informant on 11.09.2024, he gave his written report before the police on the same day whereupon the FIR was lodged.

4. Learned senior counsel for the petitioner submits at the outset that an occurrence took place on 04.09.2024, and the FIR was lodged belatedly on 12.09.2024. It has next been submitted that the entire occurrence seems to be arising out of a dispute between some young boys, who, have indulged in some acts of assault. However, it is submitted that the allegations levelled in the FIR are not completely correct and the same is also not specific but is general and omnibus in nature. It has been stated that co-accused Bubbi Kumar and the victim are friends whereas the petitioner is relative of Muskan, the victim and all of them are studying at Samastipur while the petitioner is student of B.A-II preparing for competitive examination. Further submission on behalf of the petitioner is



that although, there is a reference to the audio visual clip in the case diary but there is no certification of 65(B) of the Evidence Act and hence, its authenticity is not established. It has further been submitted that the injury report of the son of the informant is on record which would go to show that there are two injuries, one is multiple old abrasion over the left side of thorax and the other injury is old ulcer over left gluteal region, which are simple in nature caused by hard and blunt substance. It has also been submitted that during the course of investigation, some independent witnesses have been examined, who have merely referred to some dispute which had taken place between the parties. It would also appear from the case diary that statement of some of the witnesses have been recorded, in which it is stated that the petitioner and the informant's son were known to each other and the present occurrence took place on account of some dispute between them.

5. Learned APP for the State opposes the anticipatory bail.

6. Learned senior counsel for the informant has very vehemently opposed the prayer for anticipatory bail stating therein that narration of events in the FIR would itself disclose that the offence is very heinous and serious in nature. It has also



been submitted that on account of such act of the accused persons, the boy was traumatized and the delay in the FIR is explained on account of such trauma having been faced by the informant's son and the said FIR only came to be lodged subsequently, when the informant, who is father of the victim got to know about the said incident through an audio and video visual clip. He also reiterate the facts that the mobile of the informant's son was also snatched away by the accused persons. It has been brought to the notice of this Court that one of the co-accused Bubbi Kumar was taken into custody and was then granted regular bail.

7. It is no doubt a fact that the narration of the events in the FIR appears to be quite atrocious, but however, this Court cannot even shut its eyes to the fact that there was delay in filing of the FIR and the injuries received by the victim are also simple in nature. It is also a fact that the petitioner is also a young boy and a student of B.A part-II and there is no criminal antecedent. Hence, these factors would need to be considered by the court at this stage and also the fact that no case of attempt to murder, extortion, or theft under section 109, 308(5) and 304(2) of BNS is made out, while other sections levelled are bailable in nature.



8. In view of the such facts and circumstances, I am inclined to grant privilege of anticipatory bail to the petitioner. Accordingly, in the event of his arrest/ surrender within a period of four weeks from today the petitioners shall be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Samastipur in Town P.S. Case No. 194 of 2024, subject to condition as laid down under Section 438(2) of the Cr.P.C and subject to the further condition :-

(i) One of the bailors to be a close family member/ relative of the petitioner.

(ii) The petitioner would make himself available before the investigating officer of the present case at interval of every 15 days till submission of charge sheet and even thereafter would co-operate in the trial.

(iii) In case there is substantial material to show that the petitioner is not co-operating in the investigation or trial and that the petitioner is further indulging into any audacious act with the informant or threatening him in any manner, the informant would be at liberty to file for cancellation of bail of the petitioner.



9. At this stage, learned counsel for the petitioner also undertakes that in case he has mobile of the informant worth Rs. 25000/- with him, he will hand over the same to the informant's father who would receive it and even if, he does not have the same, a new mobile worth Rs. 25000/- would be made available to the informant's father before furnishing bail bonds of the petitioner.

10. The application is allowed with the above mentioned conditions and upon honouring the undertaking given by the petitioner.

(Soni Shrivastava, J)

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