

**(2021) 08 PAT CK 0098**

**Patna High Court**

**Case No:** Criminal Miscellaneous No. 37735 Of 2020

Ajit Sharma

APPELLANT

Vs

State Of Bihar

RESPONDENT

**Date of Decision:** Aug. 24, 2021

**Acts Referred:**

- Indian Penal Code, 1860 - Section 34, 308, 323, 341, 447, 504
- Code Of Criminal Procedure, 1973 - Section 438(2)

**Hon'ble Judges:** Ahsanuddin Amanullah, J

**Bench:** Single Bench

**Advocate:** Jai Prakash Singh, Nand Kumar

**Final Decision:** Disposed Of

### **Judgement**

1. The matter has been heard via video conferencing.
2. Heard Mr. Jai Prakash Singh, learned counsel for the petitioner and Mr. Nand Kumar, learned Additional Public Prosecutor (hereinafter referred to as the "APP") for the State.
3. The petitioner apprehends arrest in connection with Sikarahatta PS Case No. 28 of 2020 dated 02.04.2020, instituted under Sections 341, 323, 504, 308 and 447/34 of the Indian Penal Code.
4. The allegation against the petitioner is that he had come to the house of the informant and started quarreling and when the informant tried to pacify him by saying that the quarrel between the children keeps on happening, the petitioner is said to have assaulted her with thin iron rod on the head resulting in injuries and further that all the accused persons had assaulted her, her husband as also her daughter with fists and slaps.

5. Learned counsel for the petitioner on 23.07.2021 had submitted that the parties are next door neighbours and there was dispute with regard to drainage of water and thus this false case has been instituted. It was submitted that the informant has suffered only lacerated wound injury on the mid-line of the skull but opinion has been reserved for X-ray report.

6. Having regard to the aforesaid, the Court had asked learned APP to obtain the up-to-date legible photocopy of the entire case diary as also the injury report, including the final injury report/s of the victims, from the Superintendent of Police, Bhojpur.

7. Learned APP submitted that he has received the case diary and the report in which it has been stated that upon inquiry from the concerned Primary Health Centre, it transpires that no final report has been prepared.

8. Learned counsel for the petitioner submitted that there are five accused persons in the present case, including the petitioner. It was submitted that the petitioner along with co-accused Tara Muni Devi and Madhu Kumari had filed ABP No. 870 of 2020, in which the learned Additional Sessions Judge-XIII, Bhojpur at Ara, by order dated 10.07.2020 had granted the other two co-accused anticipatory bail but had rejected the prayer of the petitioner because there was specific allegation of him having caused injury on the head by iron rod. Learned counsel submitted that the parties have now also settled the matter and filed compromise petition in the Court concerned on 06.08.2021 stating that cordial relationship has been restored and the matter has been amicably settled. In support of the same, he drew the attention of the Court to Annexure-1 of his supplementary affidavit. It was submitted that the petitioner has no other criminal antecedent.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, having regard to the fact that the parties are next door neighbours as also that the injury report shows only a lacerated wound on the mid-line of the skull near vertex as also there being compromise and harmony established between them, to put an end to the controversy, for the larger ends of justice, the Court is inclined to allow the prayer for pre-arrest bail.

10. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon

furnishing bail bonds of Rs. 25,000/-(twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM 8th

Bhojpur at Ara in Sikarahatta PS Case No. 28 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973

and further, and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and

give undertaking with regard to good behaviour of the petitioner and (iii) that the petitioner shall co-operate with the Court and police/prosecution. Any

violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

11. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the notice of the Court concerned,

which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

12. The petition stands disposed of in the aforementioned terms.