

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
B.A. No.3910 of 2022**

Suresh Yadav Petitioner
Versus
The State of Jharkhand Opp. Party

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner : Mr. Randhir Kumar, Advocate
For the State : Mr. Tarun Kumar, A.P.P.

04/02.05.2022 Heard learned counsel for the applicant and learned A.P.P. for the State.

2. This bail application has been filed on behalf of the abovenamed applicant with prayer to release on bail in connection with Sessions Trial Case No.21 of 2019 arising out of Jainagar P.S. Case No.198 of 2014 registered under Sections 341, 323, 324 and Section 307 read with Section 34 of the Indian Penal Code pending in the court of learned Additional Sessions Judge-III, Koderma.

3. Mr. Randhir Kumar, learned counsel for the applicant has submitted that the first information report of this case was lodged by the informant against two named accused persons, namely, Suresh Yadav and Manoj Yadav with these allegations that his father was coming to his house after ploughing the field. On 23rd October, 2014 at 8 O' Clock of morning, Suresh Yadav and Manoj Yadav of his village had assaulted to his father with a hard and blunt substance (Juwath), whereby he became unconscious on account of sustaining injuries. The blood was oozing from the nose and mouth of his father and he was taken to hospital.

4. Learned counsel for the applicant has submitted that the F.I.R. of this case was lodged by the son of the victim and as per F.I.R. allegations, both accused persons had assaulted to the father of the informant with a hard and blunt object (Juwath), whereby he sustained grievous injury. As per injury report, the nature of injury is grievous in nature but there is no evidence against the applicant

that he had assaulted to the father of the informant. The statement of injured was not recorded by the Investigating Officer. As such, the testimony of informant is not admissible being hearsay. The applicant has been languishing in jail since 1st February, 2022.

5. Mr. Tarun Kumar, learned A.P.P. appearing on behalf of the State vehemently opposed the contentions made by the learned counsel for the applicant and contended that the victim (father of the informant) had sustained grievous injury on the vital part of the body i.e., head. It is further submitted that the informant had supported the prosecution story but the statement of victim was not recorded and there is no other eye-witness of the occurrence.

6. In the case in hand, the best evidence was the injured himself, who sustained grievous injury on the vital part of the body i.e., head; but the Investigating Officer (in short 'I.O.') of this case had not recorded the statement of the injured. Due to latches on the part of the I.O., the statement of the victim was not recorded, which might have shown the complicity of the applicant in commission of the alleged offence.

7. This Court, while exercising its bail jurisdiction, often found that the investigation by the police is not conducted in fair and proper manner and the real culprit goes scot-free i.e., unpunished. The charge-sheet, in the case in hand, has been filed and the concerned Magistrate whose duty was to monitor the investigation in view of Section 156(3) of Code of Criminal Procedure had not exercised his power in light of the case law laid down by the Hon'ble Apex Court in the case of ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage & Others*** reported in ***(2016) 6 SCC 277*** .

8. The Hon'ble Apex Court in the case of ***Karan Singh vs. State of Harayana and Another*** reported in ***(2013) 12 SCC 529*** has held as under:-

"16. The investigation into a criminal offence must be free from any objectionable features or infirmities which may give rise to an apprehension in the mind of the complainant or the accused, that investigation was not fair and may have been carried out with some ulterior motive. The Investigating Officer

must not indulge in any kind of mischief, or cause harassment either to the complainant or to the accused. His conduct must be entirely impartial and must dispel any suspicion regarding the genuineness of the investigation. The investigating officer, "is not merely present to strengthen the case of the prosecution with evidence that will enable the court to record a conviction, but to bring out the real unvarnished version of the truth". Ethical conduct on the part of the investigating agency is absolutely essential, and there must be no scope for any allegation of mala fides or bias. Words like "personal liberty" contained in Article 21 of the Constitution of India provide for the widest amplitude, covering all kinds of rights particularly, the right to personal liberty of the citizens of India, and a person cannot be deprived of the same without following the procedure prescribed by law. In this way, the investigating agencies are the guardians of the liberty of innocent citizens. Therefore, a duty is cast upon the investigating officer to ensure that an innocent person should not suffer from unnecessary harassment of false implication, however, at the same time, an accused person must not be given undue leverage. An investigation cannot be interfered with or influenced even by the courts. Therefore, the investigating agency must avoid entirely any kind of extraneous influence, and investigation must be carried out with equal alacrity and fairness irrespective of the status of the accused or the complainant, as a tainted investigation definitely leads to the miscarriage of criminal justice, and thus deprives a man of his fundamental rights guaranteed under Article 21 of the Constitution. Thus, every investigation must be judicious, fair, transparent and expeditious to ensure compliance with the rules of law, as is required under Articles, 19, 20 and 21 of the Constitution."

9. The Hon'ble Apex Court in the case of ***Vinay Tyagi v. Irshad Ali*** reported in **(2013) 5 SCC 762** has observed that "the fair and proper investigation in criminal jurisprudence is to encompass two imperatives; firstly, the investigation must be unbiased, honest, just and in accordance with law; and secondly, the entire emphasis has to bring out the truth of the case before the court of competent jurisdiction."

10. The Hon'ble Apex Court in the case of ***Samaj Parivartana Samudaya & Ors. vs State of Karnataka & Ors.*** reported in (2012) 7 SCC 407 has observed that "the basic purpose of an investigation is to bring out the truth by conducting fair and proper investigation, in accordance with law and to ensure that the guilty are punished."

11. As such, keeping in view the appalling state of affairs of unfair and improper investigation by the police investigating agency, this Court directs the Director, Judicial Academy Jharkhand to prepare a scheme to impart training to the Police Investigating Officers of the State of Jharkhand and to prepare the schedule programme of the

same.

12. The Director General of Police, Jharkhand is also directed to provide the list of the Police Investigating Officers of the State of Jharkhand to the Director, Judicial Academy Jharkhand for the purpose of undergoing training to conduct the effective and complete investigation. The compliance report be submitted by the Director, Judicial Academy Jharkhand and the Director General of Police, Jharkhand to the Registrar General of this Court within a period of one month.

13. The Judicial Magistrates of State of Jharkhand are also directed to monitor the investigation, so that the proper and fair investigation may be conducted by the Investigating Officers.

14. In view of the submissions made and materials on record, the bail application of the applicant is, hereby, allowed. Let the applicant be released on bail on furnishing bail bond of Rs.30,000/-(Rupees Thirty Thousand) with two sureties of the like amount to the satisfaction of the court concerned in aforesaid case.

15. The Registrar General of this Court is directed to circulate a copy of this order for compliance to all the concerned.

(Subhash Chand, J.)

Rohit/AFR