

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15919 of 2015

Arising Out of PS.Case No. -116 Year- 2014 Thana -SIMRI BAKHTIARPUR District- SAHARSA

1. Ganesh Yadav @ Ganeshi Yadav S/o Late Gujri Yadav R/o village -
Saini Tola, P.S. Simri Bakhtiarpur, District - Saharsa

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma

For the Opposite Party/s : Mrs. Renu Kumari (App)

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 09-06-2015

The petitioner is languishing in custody since

11.02.2015 in connection with Bakhtiarpur P.S. Case No. 116 of
2014 for the offences instituted under sections 147, 148, 149, 323,
324, 307, 380, 448 of the Indian Penal Code.

Heard learned counsel for the petitioner and
learned counsel for the State.

The prosecution story, in brief, is that on the date
of occurrence, the petitioner armed with Khanti, Avinash Yadav
armed with Dabiya, Abhinandan Yadav armed with lathi along
with 3-4 unknown persons entered inside the house of the
informant. It is further alleged that Ganeshi Yadav began to abuse
Sudin Yadav and demanded Rs.50,000/- by way of rangdari tax.
On protest by his father, Ganeshi Yadav told to abduct him and



kill him. Thereafter Avinash Yadav and Abhinandan Yadav dragged his father and Ganeshi Yadav inflicted injury over the head of his father by means of Khanti causing cut injury as a result of which he became un-conscious and thereafter other accused persons fled away with the money and the ornaments.

It is submitted on behalf of the petitioner that there is case and counter case. The F.I.R. of counter case is annexure-2 to this application. It has further been submitted that the injury has been sustained on the accused side also and the said injury has not been explained by the prosecution in the F.I.R. Hence, the prosecution has not come with clean hand. It is further submitted that the petitioner and the informant are both close agnates and due to a piece of land, exchange of hot words had taken place which culminated into free fight. It is further submitted on behalf of the petitioner that if the allegation is accepted to be true, only a single blow by Khanti has been given by the petitioner which is not sufficient to constitute an offence under section 307 of the Indian Penal Code as there was no intention on the part of the petitioner to kill him. At best it is a case under section 325 of the Indian Penal Code as no deadly weapon has also been used. It is further submitted that the petitioner has no criminal antecedent and he is in custody since

11.02.2015.

On behalf of the State it has been submitted that admittedly there is case and counter case and the occurrence has taken place between the agnates of the same family for the petty reason i.e. small piece of land.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Saharsa in connection with Bakhtiyarpur P. S. Case No. 116 of 2014.

(Sudhir Singh, J)

Amin/-

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