

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41569 of 2015

Arising Out of PS.Case No. -136 Year- 2015 Thana -BAHADURPUR District- DARBHANGA

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1. Jiwan Baitha @ Jeevan Kumar Baitha, S/o Shatrughan Baitha, R/o
Village- Ekmi, P.S. Bahadurpur, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Verma

For the Opposite Party/s : Mr. Anil Kumar Singh (App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

2 07-10-2015

Heard learned counsel for the petitioner Mr. Jay Prakash

Verma and learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Bahadurpur P.S. Case No. 136 of 2015 registered for offences alleged under Sections 147/148/149/341/323/325/342/307/224/225/332/333/ 353/504/506 and 188 of the Indian Penal Code.

The prosecution case is that on 09.05.2015, the S.H.O. of Bahadurpur Police Station received an informant through S.I. Bahadurpur that the accused/petitioner and one another were caught red-handed while committing theft in the rented house of S.I. Khushbuddin and as such the informant rushed there and in presence of two independent witnesses searched and asked the two arrested persons their names who told their names as (1) Jeevan Kumar Baitha son of Shatrughna Baitha and (2) Suman Kumar son of Dinesh Panjiyar of Village-Ekmighat, P.S. Bahadurpur, District- Darbhanga and in course of searching a purse containing Rs.

2,000/- and police I.D. card of Assistant Sub-Inspector Khushbuddin were seized from the pocket of Jeevan Kumar Baitha and seizure list was prepared and in this connection an application was filed by the said ASI and on that basis both accused persons were arrested. When the two arrested persons got seated in the Police jeep and the informant started for the Police Station, meanwhile under the leadership of co-accused Shatrughan Choudhary son of Sitaram Choudhary, resident of village-Ekmi along with others of village-Ekmi and 50-60 unknown persons with lathi, danda, iron rod, bhala, Farsa surrounded the said Md. Khushbuddin. It is further alleged that co-accused Satrughan Choudhary attacked with iron rod on the head of the ASI, Khushbuddin and on the protest his left hand was fractured and accused, Raghunath Paswan attacked with Lathi over his left eye which caused injury. Shatrughan Baitha and others began to assault him with lathi, Danda which caused scratch on the head and started bleeding. They all committed Dhakka-mukka against the informant and others and got rescued the said two accused arrested persons including the petitioner and obstructed the informant from discharging his duty. The informant and Khushbuddin were sent to D.M.C.H. for treatment.

It has been submitted by the counsel for the petitioner that no case under Section 307 is made out against him. Although, the

allegation is of committing theft but nothing has been recovered from the possession of the petitioner. It has further been submitted by counsel for the petitioner that three accused persons who had been alleged for assault on the informant has been granted the privilege of anticipatory bail by a Co-ordinate Bench of the Court vide order dated 13.08.2015 passed in Cr. Misc. No. 33902 of 2015.

It has been submitted by the counsel for the petitioner has that the petitioner has clean antecedent as made out in paragraph No. 3 of this application.

Furthermore, the counsel for the petitioner submits that the allegation of committing theft levelled against the petitioner is neither specific nor the overt act can be assigned to the petitioner.

In such circumstances, let the petitioner, namely, Jiwan Baitha @ Jeevan Kumar Baitha in the event of his arrest / surrender within a period of four weeks from today before the Court below, be enlarged 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, Darbhanga in connection with Bahadurpur P.S. Case No. 136 of 2015 subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Nilu Agrawal, J)

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