

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39964 of 2016

Arising Out of PS.Case No. -505 Year- 2015 Thana -MAJHAULIA District-
WESTCHAMPARAN(BETTIAH)

=====

1. Birendra Yadav son of Kodai Yadav Resident of Village-Birwan, Police
Station-Majhauiliya, District-West Champaran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7

For the Opposite Party/s : Mr. Sri Nagendra Prasad

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 17-11-2016 Heard both sides.

The petitioner apprehends his arrest in Majhauiliya
P.S. Case No. 505/2015, registered for the offences punishable
under Section 307 and other Sections of the Indian Penal Code.

The informant Vijay Yadav alleged that eighteen
accused persons including the petitioner armed with different
weapons came on his field and started harvesting Tori crops. On
such, Himachal Yadav (father of the informant) protested then all
the accused persons surrounded Himachal Yadav. Rama Yadav
assaulted him with spear on his head. Balister Yadav also
assaulted him with spear on head. Other accused persons also
assaulted Himachal Yadav. It is further submitted that the

petitioner Birendra Yadav and Brij Kishore Yadav assaulted Ram Sahay Yadav with *Garasa*.

Sri Sanjay Singh VII, learned counsel for the petitioner submits that the petitioner is alleged to have assaulted Ram Sahay Yadav. Altogether 6 injuries are found on the person of Ram Sahay Yadav but save and except one injury, all are simple in nature. Of course, one incised wound was found on skull. During course of the investigation, the Investigating Officer found that the petitioner was not present on the spot. The case of the petitioner stands on the similar footing as that of Dharmesh Yadav & others. Dharmesh Yadav and Arjun Yadav & ors. have been granted anticipatory bail, *but* it appears that the informant firstly made specific allegation against Rama Yadav and Balister yadav that they assaulted Himachal Yadav (father of the informant) with spear, thereafter all the accused persons including the petitioner are alleged to have assaulted the deceased and the deceased died on the spot. From the post-mortem report altogether four injuries were found on the person of the deceased and from the statement of Binay Yadav and Ram Sahay Yadav (injured), it appears that the petitioner and Brij Kishore Yadav are alleged to have assaulted Ram Sahay Yadav and as many as six injuries were found.

Considering the facts aforesaid and the fact that Brij Kishore Yadav has been granted regular bail, I am not inclined to enlarge the petitioner Birendra Yadav on anticipatory bail. Accordingly, the same is rejected.

If the petitioner surrenders before the court below within four weeks from the date of receipt/production of a copy of this order and pray for regular bail, his prayer shall be considered taking in to consideration that similarly situated co-accused Brij Kishore Yadav has already been granted regular bail.

(Prabhat Kumar Jha, J.)

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