

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19641 of 2017

Arising Out of PS.Case No. -37 Year- 2015 Thana -JAYNAGAR District- MADHUBANI

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Bishwambhar Yadav @ Bishambhar Yadav Son of Sri Narendra Prasad
Yadav @ Narendra Yadav, Resident of Village- Dorbar, Police Station -
Jainagar , District- Madhubani

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Banwari Sharma, Advocate.
Mr. Sahjanand Sharma, Advocate.
For the informant : Mr. Saroj Kumar, Advicate,

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 19-05-2017 Heard both sides.

The petitioner seeks bail in Jainagar P.S. Case No.
37 of 2015 registered under Section 302 and other sections of the
Indian Penal Code and Section 27(3) of the Arms Act.

Radhe Kumar Yadav, the informant, alleged that on
06.03.2015, there was scuffle between Sandha Yadav and Ram
Kumar Yadav on one hand and between Digambar Yadav and
Vishwambhar Yadav on the other hand. After the scuffle, when
the uncle of the informant Sonfil Yadav went to purchase tobacco
from the shop of Om Prakash Yadav, Digambar Yadav and Ram
Kumar Yadav assaulted his uncle and caused injuries on his head
by gun and lathi. The uncle of the informant came and narrated
the story. Thereafter, the informant, his father Chalitar Yadav and



uncle Sonfil Yadav went to complain and when they reached near the shop of Om Prakash Yadav, Bishwambhar Yadav (petitioner), Pradip Yadav, Sanjay Yadav, Om Yadav, Ram Kumar Yadav and Anil Yadav altogether seven persons came having armed with different weapons. The informant alleged that all the accused persons assaulted the informant, his father and his uncle. Digambar Yadav shot fire with his gun at his father and Pradip Yadav assaulted his father causing fracture injury in his hand. Sanjay Yadav fired which hit his uncle Sonfil Yadav and his uncle fell down. Ram Kumar @ Bhulla assaulted his uncle with lathi causing fracture injuries on his hand. Anil Yadav assaulted the informant with farsa. After that his father and uncle died.

Learned counsel for the petitioner submits that the petitioner is, of course, named in the F.I.R., but no allegation of assault is made against the petitioner. The petitioner is not alleged to have assaulted either of the deceased or the informant. Even from the perusal of the post mortem report, it would appear that the Chalitar Yadav and Sonfil Yadav only got two injuries and there are no other injuries.

Learned counsel for the informant vehemently opposed the prayer for bail and submitted that during the course of investigation, the petitioner is alleged to have assaulted the



deceased. From perusal of the F.I.R. and case diary, it appears that Digambar Yadav is alleged to have fired causing injury to Chalitar Yadav the father of the informant and Pradip Yadav assaulted Chalitar Yadav causing fracture injuries in hand. Sanjay Yadav is alleged to have assaulted Sonfil Yadav, the uncle of the informant with fire arm and when he fell down, Ram Kumar Yadav is alleged to have assaulted him with lathi causing fracture injuries on his hand. Chalitar Yadav got three injuries and Sonfil Yadav got two injuries. Of course during the course of investigation, some of the witnesses disclosed that the petitioner also assaulted, but it appears that no injury was caused to any of the deceased or informant on account of assault made by the petitioner.

Considering the facts aforesaid, the above named petitioner is directed to be enlarged 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 learned Sub-Divisional Judicial Magistrate, Madhubani in connection with Jainagar P.S. Case No. 37 of 2015.

(Prabhat Kumar Jha, J)

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