

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10355 of 2019

Arising Out of PS. Case No.-169 Year-2015 Thana- DHAMDAHA District- Purnia

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RANDHIR YADAV @ RANDHIR KUMAR YADAV, S/o Sri
Dharamchandra Yadav village-Amari Kukron,P.S-Dhamdaha, Dist- Purnia

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Diwakar Upadhyaya

For the Opposite Party/s : Mr.Mohammad Sufyan

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-02-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 28.08.2018 in a case registered for the offence punishable under Sections 324, 307, 302, 379, 120B,34 of the Indian Penal Code.

The prosecution case got initiated on the Fardbeyan of Hari Kishan Saini, recorded by S.I., A.N. Jha, of Dhamdaha Police Station on 29.06.2015 at 8.00 A.M., to the effect that the cousin brother of the informant, namely Deshaw Dev Sahni used to work with co-accused Banmam Yadav and two unknown persons. Co-accused Bambam Yadav and two unknown persons persuaded the cousin brother of the informant for marriage. It is alleged that on 28.06.2015, all the



accused persons took the informant and his cousin brother to Village Champawati for the purpose of performing marriage, where at 10.00 P.M., all the accused persons snatched Rs.7000/- from the cousin brother of the informant and Rs.200/- from the informant and assaulted them by inflicting knife blow, causing injury. Subsequently, the cousin brother of the informant succumbed to the injury, leading to registration of FIR against co-accused, Bambam Yadav and two unknown. The name of the petitioner sprang up on the basis of the confessional statement of co-accused Bambam Yadav, which is part of the FIR.

It is submitted by learned counsel for the petitioner that only on the basis of suspicion, the petitioner has been roped in the present case. It is further submitted that it appears that similar stand was recorded by the S.I. A.N. Jha on 29.06.2015 at 5.00 A.M, when the FIR was registered on 29.06.2015 at 11.00 A.M. which suggests that at the time of registration of the FIR or recording of the Fardbeyan at 8.00 A.M. on 29.06.2018, either the confessional statement was not before the police or deliberately the name of the petitioner was included in the FIR. It is further submitted that the investigation has already been concluded and a statement has



been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the name of the petitioner sprang up on the confession of co-accused Bambam Yadav and statement of the brother of the informant.

Considering the fact that when the confessional statement was available to the I.O. prior to lodging of the FIR or recording of the Fardbeyan, there is no reason not to name the petitioner in the FIR and in view of fact that the material on record, particularly, the impugned order does not suggest that the petitioner has been put on Test Identification Parade, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner 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 learned CJM, Purnea in connection with Dhamdaha P.S. Case No. 169 of 2015.

(Dinesh Kumar Singh, J)

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