

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62019 of 2019

Arising Out of PS. Case No.-437 Year-2019 Thana- TURKAULIYA District- East
Champaran

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ABHAY KUMAR @ TUFANI, Son of Shambhu Ray, Resident of Village-
Jaisinghpur Jathara, P.S.- Turkauliya, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma
For the Opposite Party/s : Mr.Choubey Jawahar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-10-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since
11.07.2019 in a case registered for the offences punishable
under Sections 147, 148, 149, 323, 341, 324, 307, 354, 379,
504 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case got initiated on the basis of
written report of Sabita Devi submitted before the Station
House Officer, Turkauliya, East Champaran Police Station is
to the effect that on 02.07.2019 at 2.30 P.M., the FIR named
accused persons, including the petitioner along with 8-10
unknown persons variously armed came and committed
robbery in the house of the informant. It is further alleged that



on seeing the informant and his brother, Uma Shankar, co-accused, Satyanarayan Rai ordered to kill, whereupon, co-accused, Kundan Kumar and Birendra Rai caught hold of the brother of the informant. Thereafter, on the order of co-accused, Sambhu Rai, co-accused Sadhu Yadav fired on the brother of the informant with a country made pistol. Thereafter, co-accused Sadhu Yadav, fired on the informant, as a result the informant got injured and fell down. It is further alleged that when the uncle of the informant Bhikhari Rai, came to rescue, then petitioner, Abhay Kumar and co-accused Manoj Rai assaulted him with lathi and iron rod. All the accused persons, including the petitioner are also alleged to have brutally assaulted the brother and uncle of the informant, as a result they got injured. The petitioner is also alleged to have snatched a gold chain from the neck of the informant worth Rs.40,000/-. It is further alleged that earlier, the brother of the informant, Dharmendra Kumar Yadav was killed at the behest of the accused persons for which Turkauliya P.S. Case No. 729 of 2018 was registered levelling accusation under Sections 147, 148, 149,341,302 of the I.P.C and when the informant was pressurized in order to compromise the case and give evidence in their favour, and he refused, the said incident



took place by all the accused persons, including the petitioner.

It is submitted by learned counsel for the petitioner, being the agnate of the informant, in the background of earlier land dispute and old enmity, has been roped in the present case. It is further submitted that there is no specific accusation of assault by the petitioner upon the informant. It is further submitted that though the petitioner is accused in four other cases, apart from the present case, but in all those cases, he has been granted bail. A statement to that effect has been made in paragraph no.3 of the petition.

Learned APP for the State submits that there is specific accusation of assault by the petitioner on the uncle of the informant, Bhikhari Rai.

Considering the fact that specific accusation of assault is not levelled against the petitioner, the impugned order does not suggest the nature of injury caused by the petitioner to the informant's uncle and the investigation already being concluded, let the above named petitioner be released on bail provisionally for six months, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Motihari, East Champaran in connection with Turkauliya P.S.



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The provisional bail of the petitioner will be confirmed by the learned Court below after verifying from the records that the petitioner has not caused any grievous injury. If it is found that he has caused grievous injury, then he will surrender and will renew the prayer for bail after framing of the charge.

(Dinesh Kumar Singh, J)

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