

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11227 of 2020

Arising Out of PS. Case No.-88 Year-2019 Thana- MIRGANJ District- Gopalganj

RAKESH CHOUDREY @ RAKESH CHOUDHARY @ RAKESH YADAV,
S/o Ramaji Choudhary, Resident of Village- Rani Sarishwa, P.S.- Mirganj,
Distt- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aashish Giri, Adv.

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 30-06-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The matter has been taken up through virtual Court
proceeding.

The petitioner has preferred the present application
for grant of bail in a case registered for the offences punishable
under Sections 147, 148, 307, 324, 302, 504 and 506 of the
I.P.C.

The prosecution case as per the written report of Baban
Chaudhary submitted for the S.H.O., Mirganj Police Station is
to the effect that on 15.04.2019 at 9.A.M., all the seven FIR
named accused persons, including the petitioner, kept some
articles on the land of the informant when the informant and his



elder brothers, namely, Kedar Chaudhary and Dinanath Chaudhary made protest, then all the accused persons started abusing and assaulting them. It is specifically alleged that the petitioner and co-accused, Harimohan @ Bajrangi Yadav assaulted on the head of Kedar Chaudhary with an iron rod and farsa respectively, as a result, he died on spot whereas co-accused, Swaminathan Chaudhary assaulted on the head of the informant with a lathi and co-accused, Abhay Yadav and Ashok Chaudhary assaulted on the head of Dudhnath Chaudhary with lathi and bricks.

It is submitted by learned counsel for the petitioner that in the background of land dispute, the petitioner, being the agnate and next door neighbour, have been implicated in the present case. In fact, on the alleged date of occurrence, i.e., on 14.04.2019, the petitioner was suffering from Diarrhea, hence, the he was admitted in Sadar Hospital, Gopalganj and on 15.04.2019, after being treated, he was discharged from the hospital at 5.10 P.M.. A certificate to that effect has been issued by the Deputy Superintendent, Sadar Hospital, Gopalganj, which has been brought on record, as Annexure-3. In fact, during scuffle between the parties, one Sanyogiya Devi received injuries for which, Mirganj P.S. Case No. 94 of 2019 was



registered on the fardbeyan of Sanyogiya Devi, levelling accusation under Sections 147, 148, 149, 341, 323, 379 and 504 of the I.P.C. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Moreover, there is no specific accusation of repeating the blow against the petitioner. Though it is alleged that this petitioner and co-accused, Harimohan @ Bajrangi Yadav assaulted on the head of Kedar Chaudhary with iron rod and farsa, but the postmortem report reflects only one lacerated injury on the body of the victim which suggests that either the informant is not an eye witness to the occurrence or false accusation has been levelled against the petitioner. The petitioner is languishing in custody since 05.07.2019 and the investigation has already been concluded. 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 there is specific accusation against the petitioner.

Considering the genesis of the occurrence being land dispute, there is no accusation against the petitioner of repeating the blow, being agnate of the informant, the accusation of assault not being corroborated by medical opinion, there being a



counter version of the occurrence against the informant's side and in the petitioner's plea of alibi, being supported by medical report issued by the Deputy Superintendent, Sadar Hospital, Gopalganj with a certificate, the investigation being already concluded coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned ACJM-XVI, in connection with Mirganj P.S. Case No. 88 of 2019.

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned ACJM-XVI, in connection with Mirganj P.S. Case No. 88 of



2019.

The learned Court below will further be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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