

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20836 of 2020

Arising Out of PS. Case No.-202 Year-2013 Thana- BAIRIYA District- West Champaran

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Mojahir Gaddi @ Mojahir Hussain Son of Late Sahbaddin Gaddi @ Sabaddin Gaddi Resident of Village- Bairiya Gaddiyani, P.S.- Bairiya, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Dilip Kumar No. 1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 06-07-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioner and learned APP for the State.

Since the physical court proceeding is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the petitioner undertakes to remove the defects within three weeks of resumption of physical court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the bench.

The petitioner is languishing in custody since



14.01.2020 in a case registered for the offences punishable under Sections 341, 323, 324, 307, 504 and 379/34 of the Indian Penal Code. Subsequently, Section 302 of the IPC was also added vide order dtd 05.08.2013. However, on conclusion of the investigation, the petitioner was not sent up for trial but differing with the final form, cognizance has been taken, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the written report of Sahim Gaddi submitted to the Station House Officer, Bairiya Police Station, is to the effect that on 03.08.2013 at 6.00 A.M., in the background of land dispute, all the five FIR named accused persons including the petitioner came variously armed and started assaulting the informant. It is alleged that the petitioner made assault with farsa to the brother of the informant, Amin Gaddi, as a result, he sustained injury and fell down and co-accused Nazir snatched a wrist watch and cash amount of Rs.5,000/- from him. Consequently, the brother of the informant was taken to M.J.K.H., Bettiah and from where he was referred to P.M.C.H. and during course of treatment, he died.

It is submitted by learned counsel for the petitioner



that admittedly, accusation has been made in the background of land dispute, and on conclusion of the investigation, the petitioner was not sent up for trial and final form was submitted, but differing with the same, cognizance has been taken against the petitioner. 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 of assault against the petitioner in the FIR.

Considering the genesis of the occurrence, the fact that there is no accusation of repeating the blow, on conclusion of the investigation, the petitioner was not sent up for trial and statement being 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 Chief Judicial Magistrate, Bettiah, West Champaran in connection with Trial No. 7308 of 2019, arising out of Bairiya P.S. Case No. 202 of 2013.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to



accept the bail bond upon 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 Chief Judicial Magistrate, Bettiah, West Champaran in connection with Trial No. 7308 of 2019, arising out of Bairiya P.S. Case No. 202 of 2013.

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

Accordingly, the application is disposed of.

(Dinesh Kumar Singh, J)

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