

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20357 of 2020

Arising Out of PS. Case No.-422 Year-2018 Thana- DHANARUA District- Patna

LUXMAN YADAV @ BUDHWA @ LAKSHMAN S/o- Sri Babu Chand
Yadav R/v- Dudhara, P.S.- Dhanarua, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Vijay Kumar Sinha, Adv.
For the Opposite Party/s	:	Mr. Rajesh Kumar, APP
For the Informant	:	Mr. Md. Helal Ahmad, Adv.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 01-07-2020 The matter has been taken up through virtual Court proceeding.

Since the physical Court is not functional due to the present pandemic, Covid-19, the matter has been listed with defects.

Learned counsel for the petitioner undertakes to remove the defect/s within a period of three weeks on resumption of physical court proceeding.

In case of non-removal of the defect/s within the undertaken period, the office will place the matter before the bench.

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



The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 323, 324, 307, 379, 427, 34 of the Indian Penal Code, 1860 and Section 27 of the Arms Act.

The prosecution case as per the fardbeyan of Mukesh Kumar recorded by Shyam Singh, S.I. of Dhanarua Police Station on 15.11.2018 at 11.30 A.M. is to the effect that the informant and his agnate, Babu Chand Yadav have a land adjacent to each other without any boundary wall. It is alleged that on 13.11.2018, the informant after getting the measurement done, in presence of Babu Chand Yadav and others, erected boundary wall over his land. On 14.11.2018, co-accused, Babuchand Yadav, Munna Yadav and the petitioner, Luxman Yadav came variously armed and demolished the boundary wall. On protest being made, they assaulted the brother and father of the informant. When the informant came to rescue them, then all the accused persons started abusing him and on the order of co-accused, Babuchand Yadav, the petitioner resorted to fire upon the informant and co-accused, Munna snatched Rs.12000/- from the pocket of the informant.

It is submitted by learned counsel for the petitioner that admittedly the accusation has been made in the background of



land dispute. There is a counter version of the occurrence also, being Dhanarua P.S. Case No. 423 of 2018 lodged by co-accused, Munna Prasad, levelling accusation under Section 323, 324, 307, 379, 447, 34 of the Indian Penal Code against the informant's side. The injury of the informant's side has been found simple in nature and there is no accusation of repeating the firing against the petitioner. Moreover, from the petitioner's side co-accused, Munna Prasad has received injury. The The petitioner is languishing in custody since 14.10.2019 and the investigation has already been concluded. It is further submitted that similarly situated co-accused, Babuchand Yadav has been granted bail by a Co-ordinate bench of this Court vide order dated 19.04.2019 passed in Criminal Miscellaneous No.25214 of 2019. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned counsel for the informant and learned APP for the State submit that there is specific accusation of firing against the petitioner, hence, the case under Section 307 of the I.P.C. is made out against the petitioner and if the petitioner will be released on bail, he may misuse the privilege of bail by terrorizing the witnesses or disturbing the peace of the family members of the informant.



Considering the fact that the accusation has been levelled in the background of land dispute, the injury being found simple in nature and co-accused, Babuchand Yadav has been granted bail by a Co-ordinate bench of this Court 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 SDJM, Masaurhi, in connection with Dhanarua P.S. Case No. 422 of 2018.

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 SDJM, Masaurhi, in connection with Dhanarua P.S. Case No.



422 of 2018.

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.

Accordingly, the present application stands disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

U		T	
---	--	---	--

