

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20215 of 2020

Arising Out of PS. Case No.-619 Year-2017 Thana- BIHTA District- Patna

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Kamandar Rai @ Kamendar Rai S/o Sri Bali Rai @ Bali Ram Rai R/o
Village- Maudahi, P.S.- Bihta, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
		Mr.Nilesh Kumar, Advocate
For the State	:	Mrs.Meena Singh, APP
For the Informant	:	Mr. Prashant Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-06-2020 The matter has been taken up through virtual Court proceeding.

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

Since the physical court proceeding is non-functional 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 the office will place the matter before the bench.

The petitioner is languishing in custody since



20.01.2020 in a case registered for the offences punishable under Sections 147, 148, 149, 348, 341, 326, 307, 302, 504, 379 and 506 of the Indian Penal Code, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the fardbeyan of Vijay Kumar recorded by S.I., Ravindra Kumar, Bihta Police Station on 29.08.2017 at 2.00 P.M., is to the effect that in the background of property dispute, the heirs of grandfather of the informant as well as his brother has restrained relationship. It is alleged that on 29.08.2017 at 1.00 P.M., all the six FIR named accused persons including the petitioner came carrying sharp cutting weapons in their hands and started pressurizing the informant's grandfather to transfer the land in their favour and on denying the same, they started assaulting the informant's grandfather and when the informant came to rescue, they also assaulted the informant and somehow the informant escaped from the spot and when he came back, he saw his grandfather's dead body with slit neck and injury marks on the body, and consequently, he also found that all the documents related to the land kept in the house are missing.

It is submitted by learned counsel for the petitioner



that the accusation of assault is omnibus and general and investigation has already been concluded. It is further submitted that co-accused Loha Singh, Bhai Birendra, Nirala @ Bara Babu and Brihaspat Rai have already been acquitted vide judgment dated 4th of December, 2018 passed by learned Additional Sessions Judge-II, Danapur in Sessions Trial No. 24 of 2018, the same has been brought on record as Annexure-2. 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 the State submit that there is specific accusation is against the petitioner that he assaulted the victim by fasuli, as a resent, he died and there is corresponding injury also on the body of the victim and the petitioner has only been arrested after three years of the registration of the case.

Considering the fact that investigation has already been concluded and other similarly situated co-accused persons have been acquitted by the trial Court, coupled with the 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 Additional Chief Judicial Magistrate, Danapur in connection with Bihta P.S. Case No. 619 of 2017.

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 Additional Chief Judicial Magistrate, Danapur in connection with Bihta P.S. Case No. 619 of 2017.

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.

However, in view of the fact that the petitioner surrendered/arrested after three years of the occurrence, the



learned court below will be at liberty to cancel the bail bonds of
the petitioner, if he defaults for three consecutive occasions.

Accordingly, the application is disposed of.

(Dinesh Kumar Singh, J)

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