

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25879 of 2020

Arising Out of PS. Case No.-224 Year-2017 Thana- BANKA District- Banka

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PRAKASH YADAV S/O Dashrath Yadav Resident of Village - bhaturai
(Chhatrapal) Gora, Police Station- Banka, District - Banka.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Mukherjee

For the Opposite Party/s : Mr. Dilip Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 01-12-2020 Heard both sides.

The matter has been taken up through video conferencing.

The petitioner seeks bail in Banka P.S. case No. 224/2017 registered u/s 302/34 of the IPC.

The mother of the deceased in her fard bayan alleged that her daughter was married with Parmeshwar Yadav in the year 2002 and she had two sons. Her son-in-law is illiterate. Her son-in-law got four brothers. Prakash Yadav, elder brother of her son-in-law, partitioned the property and gave only one and half bigha land to her son-in-law. On the date of occurrence she goat of Prakash Yadav grazed maize crops of her daughter and when her daughter went to complain Prakash Yadav having armed with Lathi assaulted her daughter and caused injuries on her leg,



hands, back, thigh and head. The daughter of informant somehow came to her house. Again Prakash Yadav came and assaulted her daughter with Lathi on her head. It is further alleged that the informant and her elder daughter, Hema Devi, went to the house of Geeta Devi who narrated the entire incident to them. There was dispute with regard to partition of the land.

The learned counsel for the petitioner submits that petitioner is elder brother of son-in-law of the informant. The husband of the daughter of informant never alleged any ill-treatment at the hands of the petitioner. According to FIR itself the petitioner is alleged to have assaulted the deceased with Lathi on her leg, hands, back, thigh and head but from perusal of the post mortem report it would appear that no external or internal injury was found. It is further submitted that one congestion of 3"x1/2" on right collar bone was found but the doctor did not ascertain the cause of death and sent viscera to FSL for chemical examination. The viscera report is also received and no case of poisoning was found. It is submitted that deceased died of illness and on account of some family dispute the mother of the deceased falsely implicated the petitioner. It is further submitted that statement of the witnesses is that the petitioner assaulted the deceased with Lathi on



different parts of her body but the post mortem report belies the prosecution case as no external or internal injury was found on the body of the deceased. The petitioner is in custody since 28.04.2020.

The learned APP opposed the prayer for bail.

Having had to the facts that the informant and the witnesses have, of course, alleged that petitioner assaulted the deceased with Lathi on different parts of her body including head but the post mortem report does not support the allegation of prosecution, the doctor did not find any external or internal injury and viscera was sent for chemical examination but in the chemical examination also no poisonous substance was found the petitioner, above named, is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Banka in connection with Banka P.S. case No. 224/2017.

(Prabhat Kumar Jha, J)

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