

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 22039 of 2020

Arising Out of PS Case No.-59 Year-2020 Thana- NAWADA MUFFASIL District- Nawada

Chamari @ Ram Tahal Chauhan @ Chamari Ram @ Tahal Chauhan, Male,
aged about 70 years, Son of Late Devki Chauhan, Resident of Village - Barhi
Bigha (Badahi Bigha), Police Station - Muffasil, District - Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Advocate
For the State : Mr. Binod Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 22-07-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Deepak Kumar, learned counsel for the petitioner and Mr. Binod Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with Muffasil PS Case No. 59 of 2020 dated 10.03.2020, instituted under Sections 341, 323, 354, 307, 379, 504, 506, 448/34 of the Indian Penal Code (hereinafter referred to as the 'Code') and 37(c) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').



4. The allegation against the petitioner and eight others is of assault and also being in a drunken state.

5. Learned counsel for the petitioner submitted that the parties are agnates and neighbours and there is history of land dispute between them. It was submitted that the occasion was *Holi* and in fact, the petitioner being the elder had gone to intervene in the minor differences between the parties. It was submitted that no specific overt act has been alleged against the petitioner and general and omnibus allegation has been made that he was also part of the group which assaulted the informant and his family members. Learned counsel submitted that even the specific allegation of assault on head and other parts is against other co-accused and not the petitioner. It was submitted that charge sheet has been submitted on 07.05.2020 only under Sections 341, 323, 354, 379, 504, 506/34 of the Code and 37(c) of the Act and not true under Section 307 of the Code. Learned counsel submitted that the petitioner is about 70 years old and has no other criminal antecedent and is custody since 11.03.2020.

6. Learned APP submitted that the petitioner was also part of the group which had assaulted the informant. However, he could not controvert the fact that no specific overt act has been



alleged against him and it has merely been stated that he was also with the assailants and had taken part in the incident.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge-cum-Special Judge, Nawada in Muffasil PS Case No. 59 of 2020 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, and (ii) that the petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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