

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63957 of 2019

Arising Out of PS. Case No.-278 Year-2018 Thana- KALYANPUR District- East Champaran

BIR BAHADUR BHAGAT Son of Jagan Bhagat Resident of Village-
Madhuwaha, P.S.-Kotwa, District-East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mrs.Nivedita Nirvikar
For the Opposite Party/s :	Mr.Anand Kishore Choudhary
	Mr. Ajay Kumar Singh.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 04-03-2020 Heard the learned counsel for the petitioner, the learned
APP and the learned counsel for the informant.

The petitioner seeks bail in Kalyanpur P.S. case No. 278 of 2018 registered under Section 323, 341, 324, 307, 354(B), 379, 452, 504, 506/34 of the Indian Penal Code and u/s 27 of Arms Act.

The informant himself named 11 persons, including the petitioner, and alleged that all the accused persons having armed with different weapons came and began to abuse the informant and his wife. They exhorted to kill and dragged the informant and his family members out of the village. Bir Bahadur Bhagat, the petitioner, is alleged to have assaulted the informant with Farsa on his head. It is further alleged that petitioner gave second Farsa blow aiming at the head of informant but the blow did not hit the informant. Shambhu Bhagat assaulted the informant with iron rod which was warded off by the informant on his left hand. Lakhraj Bhagat and Vishwanath Bhagat assaulted the informant with Lathi on his neck. Other accused



persons assaulted the wife of the informant.

The learned counsel for the petitioner submits that four persons, namely, Bir Bahadur Bhagat, Shambhu Bhagat, Lakhraj Bhagat and Vishwanath Bhagat are alleged to have assaulted the informant. Bir Bahadur Bhagat, the petitioner, is alleged to have assaulted the informant with Farsa on his head but the doctor found only two injuries, one is lacerated wound on frontal scalp 1 ¼"x1/6" scalp deep and another injury is lacerated wound on his left hand. It is further submitted that no injury caused by sharp edged weapon such as Farsa on any part of the body of the informant was found. Of course, the informant was examined by Medical Board but the Medial Board also found one injury on the head of informant and after CT scan the injury was found depressed fracture on right parietal bone and, on account of such, the injury was opined to be grievous in nature. It is submitted that injury on the head is caused by hard and blunt object and not by sharp edged weapon. It is further submitted that there is counter version being Kalyanpur P.S. case No. 279/2018 and both sides entered into assault on each other. The petitioner is in custody since 29.07.2019. The petitioner has remained in jail for more than seven months.

On the other hand, while opposing the prayer for bail, the learned APP and the learned counsel for the informant submits that it was the petitioner who caused injury on the head of informant and the injury on the head is opined to be grievous in nature, therefore, the petitioner does not deserve bail.

Perused the records. It is evident that four persons, namely, Shambhu Bhagat, Lakhraj Bhagat, Vishwanath Bhagat and the petitioner are alleged to have assaulted the informant with iron rod, Lathi and Farsa. The petitioner is alleged to have



assaulted the informant with Farsa on his head but the injury found on the head, as per doctor, is caused by hard and blunt object. One injury was found on left hand of the informant. No injury was found on the neck of informant. The petitioner has remained in jail for more than seven months

Considering the facts aforesaid and the nature of allegation made against the petitioner, 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 Additional Chief Judicial Magistrate IX, East Champaran at Motihari in connection with Kalyanpur P.S. case No. 278 of 2018.

(Prabhat Kumar Jha, J)

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