

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79134 of 2019

Arising Out of PS. Case No.-91 Year-2019 Thana- ATHMALGOLA District- Patna

Binod Kumar Singh @ Chhotu Singh Son of Late Ramdahin Singh Resident
of Village - Suryapura, P.S.- Athmalgola, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Advocate
		Mr. Anil Chandra, Advocate
For the Opposite Party/s	:	Mr. Yogendra Kumar, APP
For the Informant	:	Mr. Ravi Shankar Pankaj, Advocate

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 14-08-2020 The Court proceeding has been conducted through
virtual mode.

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

The petitioner is languishing in custody since
06.06.2019 in a case registered for the offences punishable
under Sections 143, 147, 323, 307, 354, 302 and 447 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
Ashish Ranjan recorded by S.I., Anil Kumar of Athmalgola P.S.
on 05.06.2019 at 4.00 P.M. in Emergency Ward, N.M.C.H.,
Patna, is to the effect that the informant is the care taker of the
property of his maternal grand parents. On 04.05.2019 the



informant along with his parents was filling soil on the purchased land of 3 ½ kathas, in the meantime, agnates of his maternal grand parents namely, Binod Kumar Singh @ Chhotu Singh, the petitioner and co-accused Raushan Kumar Singh, Rahul Kumar, Rocky Kumar and Rajpal came, caught hold of the father of the informant and assaulted him. It is alleged that co-accused Raushan Kumar Singh, Rahul Kumar and Rocky Kumar slammed down the father of the informant when this petitioner Binod Kumar Singh and co-accused Rajpal assaulted with brick on the head of the father of the informant and when the informant and his mother tried to rescue him, they tore the clothes of the mother of the informant. All the accused persons assaulted the informant with fists and slaps. The father of the informant fell unconscious, whereafter he was taken to the local hospital and thereafter to Patna where during treatment, the father of the informant succumbed to the injury. It is further alleged that due to the assault made by all the accused persons on the head, the father of the informant succumbed to the injury.

It is submitted by learned Senior counsel for the petitioner that admittedly in the background of land dispute, the accusation has been levelled. Though, in the FIR it is specially alleged that the petitioner and co-accused Rajpal assaulted with



brick on the head of the father of the informant but in the subsequent statement recorded during investigation, the specific case of the informant is that all the accused persons assaulted the father of the informant and no specific accusation of assault being committed by the petitioner on the head of the father of the informant, has been levelled by the informant. Similar is the statement of eye witnesses Urmila Devi and Dilip Singh during investigation. It is further submitted that there is no likelihood of trial being concluded in near future since the Court proceedings are not functional in physical mode due to present pandemic, COVID-19. 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 against the petitioner and co-accused Rajpal of having assaulted the father of the informant with brick and the accusation is being corroborated by medical opinion, as gets reflected from the postmortem report. The charge has already been framed.

Considering the rival submissions of the parties, keeping in view the fact that though there is specific accusation in the FIR that the petitioner and co-accused Rajpal assaulted



with brick on the head of the father of the informant, which is being corroborated by the medical opinion, but in the subsequent statement the informant and two eye witnesses in paragraph 4 and 5 of the case diary have levelled omnibus and general accusation against all the five accused persons to have committed the assault, the genesis of the occurrence being land dispute, the assault not made by any arms and ammunitions, the report of learned Additional Sessions Judge-V, Barh dated 03.07.2020 reflects that though the charge has been framed on 24.01.2020 but no witness has been examined since the Court proceedings in physical mode are not being conducted in a regular manner, hence, the trial is not likely to be concluded in near future, 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 Sessions Judge-V, Barh in connection with Sessions Trial No. 1147 of 2019, arising out of Athmalgola P.S. Case No. 91 of 2019.

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 Sessions Judge-V, Barh in connection with Sessions Trial No. 1147 of 2019, arising out of Athmalgola P.S. Case No. 91 of 2019.

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, the learned trial Court will be at liberty to cancel the bail bonds of the petitioner, if the petitioner defaults for two consecutive occasions during trial.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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