

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27944 of 2021

Arising Out of PS. Case No.-44 Year-2018 Thana- TARAIYA District- Saran

SHYAM BABU RAI @ PYARI RAI S/O BHAGALU RAI R/o village-
Rajdhani, P.S.- Taraiya, District- Saran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Harish Kumar
For the Opposite Party/s : Mr.APP.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 07-12-2021 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner seeks bail in connection Taraiya P.S. Case no.
44 of 2018 dated 16.2.2018 registered for the offence punishable
under sections 341, 323, 307, 326(a), 337, 504 and 506/34 of the
Indian Penal Code.

Learned counsel for the petitioner submits that
petitioner is in custody since 15.02.2021 and is person with
clean antecedent and charge sheet has been submitted. Learned
counsel further submits that the informant in the FIR alleges that
Shyam Babu Rai @ Pyari Rai (petitioner) refused to give milk
on demand and thereafter with an intent to kill he threw acid on
the informant which was kept for measuring fat of the milk and
on account of throwing acid informant got injured. Learned



counsel submits that from perusal of the allegation as alleged in the FIR, it would manifest that it was the informant who had gone to purchase milk and it is alleged that on refusal by the petitioner to give milk occurrence took place. Learned counsel submits that it absolutely does not stand to reason that if petitioner was selling milk why he refused his customer and not gave milk to the informant on demand, learned counsel further submits that this petitioner has also instituted Taraiya P.S. Case no. 43 of 2018 dated 16.2.2018 registered under sections 147, 323, 324, 379, 448, 427, 354, 504 and 506 of the Indian Penal Code against the present informant and his brother. Learned counsel submits that from perusal of the allegation as alleged in the said FIR, it would manifest that the informant along with his brother had gone to the residence of this petitioner demanding milk when he was measuring fat content of the milk by using acid, further that petitioner refused that presently, he cannot sell milk as fat content of the milk is being checked on which informant became aggressive, further that wife of this petitioner came out and intervened when her modesty was outraged on which when hulla was raised Parma Rai President Milk Committee came hearing the hulla on which it is alleged that the informant assaulted Parma Rai by means of knife cutting his



right thumb and also looted amount from the house of this petitioner. Learned counsel then submits that from analysing the allegation as alleged in both the FIRs, it would manifest that occurrence did take place but it was not intentional rather when petitioner saw that Parma Rai who had come to save him was assaulted in a brutal manner, thus, in fit of anger he threw the acid which he had kept for measuring fat of the milk. Learned counsel submits that case will fall under section 338 IPC and not under sections 336, 307 along with other minor sections of the Indian Penal Code.

Learned APP opposes the prayer for bail.

Considering the submissions of learned counsel for the petitioner and that petitioner is person with clean antecedent also that occurrence took place in a fit of anger, the petitioner is directed to be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Addl. Chief Judicial Magistrate I, Saran at Chapra in Taraiya P.S. Case no. 44 of 2018.

(Satyavrat Verma, J)

s.hassan/-

U		T	
---	--	---	--

