

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43496 of 2021

Arising Out of PS. Case No.-40 Year-2021 Thana- KAMTAUL District- Darbhanga

Binod Roy Son of Mr. Nand Nihora Roy Resident of Village - Khajurwara,
P.S.- Kamtaul, District - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the Informant	:	Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Rabindra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 14-12-2021 Heard Shri Ajay Kumar Thakur, learned counsel for the petitioner, Shri Sanjay Kumar, learned counsel for the informant and Shri Rabindra Kumar, learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Kamtaul P.S. Case No. 40 of 2021 dated 12.02.2021 instituted for the offences under Sections 147, 148, 149, 341, 324, 325, 307, 379, 504, 506 and 302 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is in custody since 14.02.2021, charge-sheet has been submitted in the case and he has got one criminal antecedent as mentioned in paragraph '3' of the bail application.

Learned counsel for the petitioner submits that the informant (deceased) in the F.I.R. alleged that he had land



dispute with Nand Nihora Rai, on account of the said land dispute, on 11.02.2021, while the deceased was going home with his wife on his motorcycle from Kamtaul, then near Milri Khajurwara Bridge eight named accused persons, including the petitioner, and 10-11 unknown persons stopped his motorcycle and dragged him to the disputed land and on orders of Nand Nihora Rai, it is alleged that Kaushal Rai, Abhay Chand Rai, Kamlesh Rai and Binod Rai (petitioner) assaulted him by *bhala*, *farsa*, *lathi* and rod while Manoj Rai, Vijay Rai and Nand Nihora Rai had caught him and when his wife raised *hulla*, the accused persons threatened her, snatched her gold chain and Rs. 2,00,000/- and fled away when villagers started gathering, the police also came and informant was taken to D.M.C.H. for treatment as all four limbs were broken and during the course of treatment the informant died.

Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that allegation against this petitioner along with three others is that they assaulted the informant by *bhala*, *farsa*, *lathi* and rod but the postmortem report belies the allegation as none of the injury or wound suffered by the deceased was caused by any sharp-edged weapon as such for the present it is difficult to



allege that this petitioner assaulted by which weapon.

Learned counsel for the petitioner further submits that this petitioner has been falsely implicated in the case for the reason that he had filed Title Suit No. 180 of 2020 in the court of learned Sub-Judge-I, Darbhanga in which this petitioner is a plaintiff and wife of the deceased (informant) is the defendant. Learned counsel also submits that since the injury and postmortem report does not support the allegation as alleged and further that all the injuries suffered by the deceased was on the lower part of the body as such if the accused persons had intention to kill the deceased then they would definitely have assaulted on vital part of the body. It is further submitted that from the F.I.R. itself it would manifest that there was a land dispute based on which the present occurrence took place. Learned counsel further submits that the deceased himself was a veteran criminal and had grabbed land of cremation and was using it for fishing which was being objected by the villagers and it may be a possibility that the occurrence was committed in some other manner and the present petitioner came to be implicated because he is contesting a title suit with the wife of the deceased.

Learned counsel for the informant vehemently



opposes the prayer for regular bail of the petitioner and submits that it is true that none of the injury/wound on the deceased is by any sharp-edged weapon but then it was the deceased who had instituted the F.I.R. alleging that all the named accused persons including the petitioner assaulted. It is further submitted that the deceased had suffered injuries on his lower part of the body. Learned counsel for the informant does not dispute that a title suit is going on between the petitioner and the wife of the informant. Further, the learned counsel for the informant is not able to meet the submission of the learned counsel for the petitioner that when allegation is of assault by sharp-edged weapon then how come none of the injuries are said to be caused by sharp-edged weapon.

Learned A.P.P. for the State also vehemently opposes the prayer for regular bail of the petitioner.

Considering the fact that the petitioner is in custody since 14.02.2021, charge-sheet has been submitted in the case and there is a title suit going on between the petitioner and the wife of the deceased, let the petitioner above named be released on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand only) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Darbhanga in



connection with Kamtaul P.S. Case No. 40 of 2021 subject to
the condition as laid down under Section 437 (3) Cr.P.C.

(Satyavrat Verma, J)

Rishi/-

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

