

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37208 of 2020**

Arising Out of PS Case No.-81 Year-2020 Thana- BHAGWANPUR District- Kaimur
(Bhabhua)

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Avinash Singh (Male), aged about 27 years, Son of Ashok Singh @ Chunu Singh, Resident of Village- Bhagwanpur, PS- Bhagwanpur, District- Kaimur (Bhabhua).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vikram Deo Singh, Advocate
For the State	:	Mr. Brajendra Nath Pandey, APP
For the Informant	:	Mr. Rajani Kant Pandey, Advocate

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

Date : 12-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Vikram Deo Singh, learned counsel for the petitioner; Mr. Brajendra Nath Pandey, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Rajani Kant Pandey, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with Bhagwanpur PS Case No. 81 of 2020 dated 22.05.2020, instituted under Sections 341, 323, 342, 307, 379, 504 and 506 of the Indian Penal Code.

4. The allegation against the petitioner is that when the informant was returning home with his tractor, he had stopped him



and had abused and assaulted him with iron rod and had taken away Rs. 5,000/- from his pocket.

5. Learned counsel for the petitioner submitted that the allegation is totally false as it is not the correct version of the incident. It was submitted that the petitioner has filed Bhagwanpur PS Case No. 82 of 2020 on the same day with regard to the incident in which the informant of the present case was loading soil on his tractor and also playing vulgar songs at loud volume which was objected and the informant had inflicted blow by iron rod due to which the finger of the left hand was broken and he was also hit on the head. It was further alleged that the petitioner's gold chain and ring as also watch was snatched. Learned counsel submitted that the informant belongs to a different village and, thus, at 11:30 at night, being in the village of the petitioner, shows that he was in the wrong. It was submitted that besides there being lockdown prohibiting any activity, it was almost midnight when, as per law, no work involving any noise pollution is permissible and the informant was listening to vulgar songs at high volume, which was objected to. Learned counsel submitted that there may have been a fight between the two sides in which both the sides have received injuries, but the same are simple in nature as would be clear from the injury report, copy of which has been brought on



record as Annexure-3 to the present petition. It was submitted that the same shows lacerated wound over left parietal bone of skull and swelling on the left arm and abrasion on right elbow and the doctor has opined that the same are simple in nature caused by hard blunt substance. Learned counsel submitted that besides there being no per-meditation, the informant being present in a different village i.e., of the petitioner at 11:30 in the night leaves no doubt that the reason for the incident and provocation was the informant of the present case. Learned counsel submitted that the petitioner has no other criminal antecedent.

6. Learned APP submitted that the informant has received injuries on his body. However, it was not disputed that the same are simple in nature caused by hard blunt substance.

7. Learned counsel for the informant submitted that the petitioner is a strong man and the informant is a poor labourer and such persons are always harassed by the petitioner and are unable to earn their livelihood peacefully. However, on a query of the Court as to why the informant was present with the tractor at 11:30 PM at night in another village, learned counsel could not give any satisfactory explanation and only submitted that some work related with farming was going on at that time.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, 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 ACJM-V, Kaimur at Bhabua in Bhagwanpur PS Case No. 81 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner and (iii) that the petitioner shall co-operate with the police/prosecution and the Court. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.



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

(Ahsanuddin Amanullah, J.)

P. Kumar

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