

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.3448 of 2021**

Arising Out of PS. Case No.-240 Year-2020 Thana- BIKRAM District- Patna

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UDAY KUMAR SON OF LATE AMBIKA MISTRI RESIDENT OF
VILLAGE- KHARAITHA (BARDA) P.S- BIKRAM DISTT- PATNA

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Dayanand Singh, Advocate Mr. Sandeep Kumar, Advocate
For the Opposite Party/s	:	Ms. Indu Kumari Srivastava, APP
For the Informant	:	Mr. Saket Anand, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 08-07-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned counsel for the Informant and Ms. Indu Kumari Srivastava, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Bikram P.S. Case No. 240 of 2020 registered for the offences punishable under Sections 147, 149, 341, 323, 302 and 307 of the Indian Penal Code.

Learned counsel for the petitioner submits on bare reading of First Information Report it would appear that parties are co-sharers and they have got the land dispute in which it is alleged that eight



named accused persons assembled on the land of the informant and they wanted to forcibly plough the land with tractor, which was objected to by the husband of the informant where upon all the accused persons who were lashed with lathi-danda assaulted the husband of the informant as a result whereof the head of the husband was fractured and he suffered several injuries on his body and ultimately died.

Learned counsel for the petitioner submits that in the First Information Report itself it is stated that eight named accused persons were involved in the alleged occurrence. According to the petitioner it is a case of admitted land dispute where the parties have fought 144 Cr. P.C. proceeding and there is also a counter case of the alleged occurrence giving rise to Bikram P.S. Case No. 217 of 2020 dated 10.7.2020. learned counsel further submits that the subject land is an ancestral land and there has been a dispute between the two families who are claiming to common ancestors. According to him the deceased victim and his father had resorted to unlawful means, they assaulted the petitioner and threatened him saying that the land does not belong to him. This gave rise to 144 Cr.P.C. proceeding, a copy of which has been brought on record. The said proceeding was disposed on vide Annexure-5 to the present application saying that the dispute may be resolved only through a partition suit.

Learned counsel further submits that in the post-mortem report only two injuries have been found on the head of the deceased



and it shows that the present case is one of the over implication of the accused with the aid of Section 149 of the Indian Penal Code. The petitioner is said to be in custody since 15.9.2020, investigation against him is complete but the trial is not likely to commence in near future.

On the other hand, learned counsel for the informant has opposed the prayer for bail of the petitioner. It is submitted that all the eight accused persons had acted with premeditation of mind and they had been involved in the assault upon the husband of the informant. Learned counsel further submits that in the post-mortem report total 4-5 injuries have been found on the body of the deceased out of which at least two injuries have been caused on the scalp. Under these circumstances learned counsel for the informant submits that the petitioner does not deserve the privilege of bail.

Learned APP for the State has also opposed the prayer for bail and endorse the submission of learned counsel for the informant.

Having regard to the facts and circumstances of the case wherein this Court has noticed that parties hereto are co-sharers, they have got land dispute, earlier also such dispute was subject to 144 Cr. P.C. proceeding and at this stage the allegation of assault have been made against eight accused persons named in the FIR, the allegations are general and omnibus, the two scalp injuries are not specifically attributed to this petitioner, finding that altogether eight persons are named in the FIR but the injuries on the vital part of the body i.e.



head are two in numbers only and further on finding that the petitioner has remained in custody since 15.9.2020, he has otherwise no criminal antecedent, investigation against him is complete but the trial is not likely to be take place in near future in the kind of general and omnibus allegation, this Court is inclined to release the petitioner on bail, let the petitioner be released on furnishing the bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. VI, Danapur in connection with Bikram P.S. Case No. 240 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) That such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) That such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the



petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'

