

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 10344 of 2021

Arising Out of PS. Case No.-77 Year-2020 Thana- TARABARI District- Araria

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Md Usman @ Usman, age-32 years Male, Son of Md. Sarif @ Md. Sharif,
Resident of Village- Cherarni, Ward No. 2 PS- Tarabari, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Ziaul Quamar, Advocate

For the State : Mr. Yogendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 20-07-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 14.07.2021, which was allowed.

3. Heard Mr. Md. Ziaul Quamar, learned counsel for the petitioner and Mr. Yogendra Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Tarabari PS Case No. 77 of 2020 dated 12.08.2020, instituted



under Sections 147, 148, 149, 341, 323, 324, 326, 307, 379, 427, 504 and 506/34 of the Indian Penal Code.

5. The allegation against the petitioner and others, who were said to be variously armed, is of assault on the informant and others. However, specifically against the petitioner, the allegation is of having assaulted on the leg causing injury.

6. Learned counsel for the petitioner submitted that the allegation is general and omnibus against nine persons including the petitioner and is limited to the specific overt act of attack on the right leg, that too, along with another co-accused. It was submitted that the injury report attributed to such attack shows that the same was simple in nature caused by hard blunt substance as there is only swelling on the right ankle joint. Learned counsel submitted that the petitioner has no criminal antecedent. It was further submitted that there is allegation against nine persons but only two persons have been injured i.e., the informant and his nephew and there is previous enmity. Learned counsel submitted that the *Sarpanch* has also given a certificate that the petitioner, who is a tempo driver, was at Forbesganj on the date of occurrence and was not present there.

7. Learned APP did not controvert the fact that as per the allegation, the petitioner and another co-accused had assaulted



on the right leg which has resulted only in swelling on the right ankle joint and is simple in nature caused by hard blunt substance.

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 Chief Judicial Magistrate, Araria in Tarabari PS Case No. 77 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, 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 petition stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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