

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2839 of 2022

Arising Out of PS. Case No.-66 Year-2021 Thana- BAHERI District- Darbhanga

Shiva Kumar Mandal @ Shiv Kumar Mandal @ Shiva Mandal Son of Late
Hakroo Mandal Resident of Village - Dainikhon, P.S.- Baheri, Distt.-
Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Nawal Kishor Prasad, Advocate
For the Informant	:	Mr. Kedar Jha, Advocate
For the Opposite Party/s	:	Mr.Sanjay Kumar Tiwary,APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 01-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Baheri P.S. Case No. 66 of 2021 registered for
the alleged offences under Sections 147, 148, 149, 341, 323, 307
and 302 of the Indian Penal Code.

As per prosecution case, in the background of land
dispute, the petitioner and other co-accused persons assaulted the
informant, his father and his brother. All of them received injuries
and father of the informant succumbed to his injuries during the
course of treatment.

Learned counsel for the petitioner submits that the land dispute is admitted from the F.I.R. itself. This petitioner had earlier registered Baheri P.S. Case No. 275 of 2012 against witness Raghunath Singh and as revenge he has been falsely implicated in this case on the saying of the said witness. It is also clear from the F.I.R. that the informant is having land dispute with co-accused Mahesh Mandal and this petitioner has got no concern with the informant. The co-accused Mahesh Mandal has filed a counter case against the informant vide Baheri P.S. Case No. 72 of 2021. As this petitioner works in the filed of Mahesh Mandal he has been falsely implicated in this case by the informant. The witnesses examined during investigation have given different version of the occurrence and they have made allegation of assault against a number of persons including this petitioner and the allegations are general and omnibus. Even the informant has given two different statements and has stated different facts. In first statement recorded at the D.M.C.H, he stated that the petitioner had given an axe blow on the head of the Dinesh Mandal whereas in his second statement recorded at P.M.C.H, he said that Raghubar Mandal and Birendar Kumar had assaulted his brother with iron rod on his head. Moreover, injury report of Dinesh Mandal shows only one injury over right fronto parietal area caused by blunt weapon which cannot be by axe. Further, a single

injury cannot be caused by two persons. Other injuries are abrasion and swelling on the head. Which shows the petitioner has not given any blow on the head of the Dinesh Mandal with axe. Charge sheet has been submitted in this case and the petitioner is in custody since 05.09.2021. The petitioner has got clean antecedent. The co-accused Raushan Kumar has been granted bail vide order dated 16.08.2022 passed in Cr. Misc. No. 805 of 2022 and and Jitendra Mandal has been granted bail vide order dated 10.10.2022 passed in Cr. Misc. No. 69928 of 2021 by this court. Further, co-accused Mahesh Mandal has been refused bail by the same order.

Learned APP for the State as well as learned counsel appearing on behalf of the informant oppose the submission made on behalf of the petitioner. Learned counsel appearing on behalf of the informant submits that there is specific allegation against this petitioner in the F.I.R. that he assaulted on the head of the brother of the informant with *tengaari*(axe).

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that there is doubt over the nature of assault on the person of the brother of the informant with same allegation of assault against other co-accused persons as well and further considering the

period of custody along with submission of charge sheet against him, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-VIIth, Darbhanga in connection with Baheri P.S. Case No. 66 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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