

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7094 of 2022

Arising Out of PS. Case No.-632 Year-2020 Thana- CHANPATIA District- West Champaran

Brijnandan Rai Son of Late Narsingh Rai Resident of Village- Bhangaha,
P.S.- Kumarbagh O.P. Chanpatiya, District- West Champaran, Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Advocate
For the Opposite Party/s : Mr. Yogendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

2 17-02-2022 The applicant is given out of turn hearing on account of marriage of his son which is scheduled to be held on 18.02.2022.

The applicant is accused in Crime No. 632 of 2020 registered with Chanpatiya Police Station for the offences punishable under Sections 341, 323, 324, 307, 325, 327, 379, 387, 504, 506 read with Section 34 of the Indian Penal Code. By this application he is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused as well as learned Additional Public



Prosecutor appearing for the State.

Learned counsel for the applicant argued that the applicant is falsely implicated in the subject crime on account of land dispute between the brothers. He is a military man. Title suit amongst the brothers is pending for adjudication in the Civil Court. It is further argued that the injury certificate prima facie shows that the offence punishable under Section 307 of the Indian Penal Code is not made out. It is further argued that the criminal antecedents alleged against the applicant are the criminal cases instituted at the behest of his own brothers on account of the land dispute. In one of the crime, the police reported that no case is made out against the applicant and the matter is that of civil nature whereas in another case the applicant was given benefit of the provisions of Section 41B of the Cr.P.C.

The learned Additional Public Prosecutor opposed the application by contending that the offence is serious and the injury certificate shows that grievous wound is caused to the victim in the incident in question.

I have considered the submissions so advanced and also perused the materials placed before me.

The main section invoked against the applicant is



Section 307 of the Indian Penal Code . In order to make out the offence punishable under Section 307 of the Indian Penal Code what matters is an intention. It is absolutely not necessary that the injury should be inflicted by the offender for making out this offence. However, in order to gather intention of the assailant, all surrounding circumstances including the weapon used and the nature of injury caused are relevant.

Be that as it may, undisputedly the first information report is lodged by the brother of the applicant. First informant Vijay Kumar Rai has reported that at about 6:00 AM of 13.12.2020 when he was having tea on his own land the applicant along with his associates came. They were armed with rods and sticks. The applicant then demanded an amount of rupees one lac from the informant towards “Rangdari”. He threatened that if the amount is not paid then he will kill the first informant. The co-accused asked the first informant to sell out his land for payment of the amount of extortion. When the first informant refused to oblige, it is reported that the applicant and his associates had assaulted the first informant and relieved him of cash of rupees nine thousand.

Following injuries were noted on the person of the informant after incident:-



“I. Rt Index Finger

II. Contusion over shin of tibia 2 X @ in round

III. Redness in left eye

IV. Sharp cutting wound postal region of head 3 cm
x 0.2 mm size Rt aspect skin deep”

The attending medical officer has opined that fracture of right index finger is an injury of grievous nature whereas other injuries are simple in nature caused by hard and blunt object as well as the sharp cutting object.

It would be the question to be determined on the basis of evidence after the trial as to whether the assailant including the present applicant had really intended to kill the first informant on the basis of evidence on record as well as the nature of injuries suffered by the victim. However, prima facie it is seen that the injuries on vital part of the victim are simple in nature. The criminal antecedents alleged against the applicant at the behest of his own brothers. It is reported that title suit amongst them is pending. The applicant has already undergone pretrial detention during investigation of the subject crime and more particularly from 31.12.2021.

In this view of the matter, I see no reason to refuse bail to him and hence, the order :-



i. The application is allowed.

ii. The applicant/accused in Crime No. 632 of 2020 registered with Chanpatiya Police Station be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this



order only after removal of office objections by the
applicant/accused.

(A. M. Badar, J)

Mkr./-

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

