

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13395 of 2022

Arising Out of PS. Case No.-300 Year-2021 Thana- MASHRAK District- Saran

JAMUNA RAI Son of Baldeo Rai Resident of Village - Bali Vishunpura, P.S.-
Masharakh, District - Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rabindra Kumar Tiwari, Advocate.
For the Opposite Party/s	:	Mr. Bharat Lal, APP.
For the Informant	:	Mr. Ranjay Kumar, Advocate with Mr. Kumar Binod Bisvas, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 12-10-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Rabindra Kumar Tiwari, learned counsel for the petitioner, Mr. Ranjay Kumar, learned counsel for the informant as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Masharakh P. S. Case No. 300 of 2021 registered for the offences punishable under Sections 341, 323, 427, 307, 504, 506 and 34 of the Indian Penal Code.

The prosecution case is based on a written report filed by the informant alleging therein that on 06.06.2021, while



the informant was repairing his hut (Palani), in the meantime, 18 persons including the petitioner variously armed with *lathi*, *danda* and rod rushed to the place of occurrence and threatened to remove the hut. On protest, all the accused persons started assaulting the informant. It is also alleged when his nephew Sandesh Rai @ Dipak Rai and Sunita Devi came to rescue him, this petitioner assaulted them by means of iron rod over their heads due to which they sustained serious injuries.

Learned counsel appearing on behalf of the petitioner submitted that the bone of contention of the dispute is land on which the petitioner and his family have been coming on peaceful possession for the last several years, however, when the informant and his family members were trying to encroach the land of the petitioner, a protest was made and a free fight has taken place between both the parties in which the members of both the sides have sustained injuries. It is also submitted that prior to the institution of this case, the petitioner had instituted Mashrakh P. S. Case No. 299 of 2021 against the informant and others. The copy of which has been brought on record by way of annexure 2 to this application. It is further submitted that so far the injuries sustained to the family member of the informant are concerned, the same are simple in nature except one, which has



been sustained to Sandesh Rai @ Dipak Rai over his jaw. It is last submitted that the petitioner having fair antecedent, is in custody since 05.01.2022 and there is no allegation of intimidating to the witnesses and tampering with the evidences.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the specific allegation has been attributed against the petitioner that he assaulted two of the family members of the informant and caused grievous injury to Sandesh Rai @ Dipak Rai.

Learned APP for the State also opposes the bail application.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that there was a free fight taken place between the family members of both the parties, which resulted into injuries to the members of both the sides, however, prosecution has failed to explain the injuries sustained to the members of the petitioner, apart from the nature of injuries and the period of incarceration, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial



Magistrate- 1st Class, Saran at Chapra in connection with Masharakh P. S. Case No. 300 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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