

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27090 of 2021

Arising Out of PS. Case No.-118 Year-2020 Thana- BIHARIGANJ District- Madhepura

AMAR KUMAR, Son of Birendra Mehta, Resident of Village- Sehikhpura
Ward No.2, Police Station- Bihariganj, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
		Mr. Vikram Singh, Advocate
For the Opposite Party/s	:	Mr. Ashok Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 08-02-2022 Heard the parties through video conferencing.

Heard Sri N.K. Agrawal assisted by Sri Vikram Singh,
learned counsel appearing on behalf of the petitioner and Sri
Ashok Kumar Singh, learned A.P.P. for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

Petitioner, who is in custody since 12.10.2020 seeks
regular bail in connection with Biharigarh P.S. Case No. 118 of
2020 registered for offences punishable under Sections 341,
323, 324, 325, 307, 379, 504, 506 later on added on 10.06.2020
Section 302 of the Indian Penal Code.

Prosecution case, in brief, is that informant Dinesh
Mehta alleging that on 01.06.2020 at about 10 a.m. the



petitioner along with other co-accused persons armed with deadly weapons came to the door of his elder brother namely, Umesh Mehta. They started abusing and assaulting the informant by means of Dabiya and iron-rod. They also assaulted the other family members by deadly weapons and took away silver chain from the informant's sister-in-law and some other ornaments. One Birendra Mehta assaulted the brother of the informant by means of the iron rod who succumbed to injury. Postmortem report also reveals the cause of death is hemorrhage and shock due to injuries received.

Learned counsel appearing on behalf of the petitioner submits that there is allegation against the petitioner of assaulting the informant and his son as would appear from the F.I.R. itself. He further submits that on perusal of the injury report it appears that both the injured person (informant and his son) sustained simple injury. There is no allegation against the petitioner that he has assaulted the Umesh Mehta, who had died. It is further submitted that there is case and counter-case between the parties for the purpose of fencing of boundary wall between the petitioner and the informant who are *Gotias*.

Learned A.P.P., for the State has opposed the prayer for grant of bail to the petitioner. He submits that the allegation



against the petitioner is of assaulting the informant and his son by means of iron-rod and they have sustained injury and as such the petitioner does not deserve to be released on bail.

Considering the above mentioned facts and circumstances of the case, perusal of the F.I.R in which there is specific allegation against the petitioner that he has assaulted the informant and his son and the opinion of the doctor with respect to the injury sustained by both of them is simple in nature, the petitioner has not assaulted any of the victim on the vital part of the body as would appear from the injury report, there is long standing family dispute for fencing of the boundary wall and there is case and counter-case between the parties in course of the fight between the *Gotias*, however, the brother of the informant namely, Umesh Mehta succumbed to injury assaulted by one Birendra Mehta and there is no allegation that petitioner was also one of the members to assault the deceased (Umesh Mehta), the petitioner has made out a case for grant of regular bail. The Court below is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Bihariganj (Madhepura) in connection with Biharigarh



P.S. Case No. 118 of 2020 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(Purnendu Singh, J)

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