

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23951 of 2022

Arising Out of PS. Case No.-718 Year-2021 Thana- KHAGARIA District- Khagaria

Raju Sharma S/o Jawahar Sharma R/o village- Ranisakarpura, P.S.- Gangour,
District- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate.

For the Opposite Party/s : Mr. Amitesh Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 03-08-2022 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. Praveen Kumar Agrawal, learned counsel for the petitioner 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 Khagaria (Gangour) P. S. Case No. 718 of 2021 registered for the offences punishable under Sections 341, 323, 307, 325, 504 and 506 read with 34 of the Indian Penal Code and later on, Section 302 of the Indian Penal Code.

As per the prosecution case, it is alleged that while neighbour of the informant, Hari Sharma was making



construction on the informant's land illegally and when the same was protested, his son namely, Dinbandhu Sharma on the order of his father assaulted him over his head by means of *Khanti*. It is further alleged that other co-accused persons also assaulted them with *lathi*, *danda* and iron rod. It is further submitted that this petitioner assaulted the informant over his hand by means of *lathi* due to which his hand was broken.

Learned counsel appearing on behalf of the petitioner submitted that from the F.I.R., it is evident that there is specific allegation levelled against Dinbandhu Sharma, who on the dictate of his father assaulted the deceased over his head, which resulted into his death. It is next submitted that the post mortem report also suggests that the deceased was died on account of cardiac respiratory failure due to head injury. It is further submitted that admittedly, there is a land dispute due to which a free fight had taken place wherein persons of both sides have sustained injuries. It is next submitted that in fact, the deceased died after 14 days of alleged occurrence in absence of better treatment and as such, no case under Section 302 of the I.P.C. would be applicable against the petitioner. It is lastly submitted that this petitioner is in custody since 26.09.2021 and the investigation of the crime is already completed and the



charge sheet has been submitted.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that all the accused persons in furtherance of common intention assaulted the informant due to which he succumbed to injuries.

Having considered the submissions made on behalf of the parties and taking into account the fact that the specific allegation has been levelled against co-accused Dinbandhu Sharma, so far this petitioner is concerned, there is allegation of assaulting the deceased by means of *lathi* over his hand, which is not cause of death, and moreover, he is in custody since 26.09.2021, having fair antecedent, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Khagaria in connection with Khagaria (Gangour) P. S. Case No. 718 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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