

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43920 of 2021

Arising Out of PS. Case No.-76 Year-2021 Thana- JAGDISHPUR District- Bhojpur

SHAIENDRA KUMAR YADAV, Son of Mahendra Yadav, Resident of
Village - Ram Chandra Ke Bathan, P.S. - Jagdishpur, District - Bhojpur.
... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr.Maya Shankar Mishra, Advocate
For the State	:	Mr.Lalan Kumar, A.P.P.
For the Informant	:	Mr. Md. Ataul Haque, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-02-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and Mr. Lalan Kumar, learned A.P.P.
for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Jagdishpur P.S. Case No. 76 of 2021
registered for the offence under Section 341, 323, 307, 379, 427,
504, 506 and 34 of the Indian Penal Code. Later on Section 302
of the I.P.C. has been added. He is in custody since 10.04.2021
having no criminal antecedent as stated in paragraph '3' of the
application.

As per the prosecution story, the brother of the
informant was engaged in selling eggs at Nayatola. The co-
accused Kameshwar Yadav and his brother went to his shot,
took some eggs but refused to pay the price whereafter a quarrel



took place. It is alleged that co-accused Kameshwar Yadav assaulted the brother of the informant with Bamboo on his head whereafter his brother fell down and started bleeding. It is then alleged that the brother of the co-accused Rameshwar Yadav took away Rs. 8500/- which was the sale proceeds of eggs and on hulla people arrived there they saved his brother from further assault.

Learned counsel for the petitioner submits that brother of the informant later on succumbed to his injuries. This petitioner is though not named in the F.I.R., but in course of investigation, his name has transpired as the brother of co-accused Kameshwar Yadav.

It is further submitted that the informant took name of this petitioner at a belated stage in course of his re-statement, he was though knowing the brother of co-accused Kameshwar Yadav but in the F.I.R. the name was not disclosed and that gives rise to a submission that while implicating the co-accused Kameshwar Yadav, his brother was also sought to be implicated.

Learned counsel submits that in any case the specific allegation of causing assault on the head of the deceased is against co-accused Kameshwar Yadav. The post-mortem report does not show multiple injury. Only one injury has been found



on the head of the deceased and that is specifically attributed to the co-accused. Since no other injury has been found it shows that the prosecution has exaggerated the case alleging that in course of quarrel the deceased was assaulted by the co-accused and his brother.

Learned counsel for the informant has opposed the prayer for bail of the petitioner. It is submitted that on the same day, in course of re-statement, the informant took the name of the petitioner. Learned counsel has, however, after going through the post-mortem report which is available to him accepts that on the dead body only one injury was found which was on the head and the same is attributed to the co-accused Kameshwar Yadav.

Learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but considering that only one injury has been found on the dead body and the said injury has been specifically attributed to co-accused Kameshwar Yadav, the petitioner has no criminal antecedent and has remained in custody in connection with this case for over nine months, his presence may be secured in course of trial, therefore, this court directs release of the petitioner above-named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five



Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-1st, Ara, Bhojpur in connection with Jagdishpur P.S. Case No. 76 of 2021, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

