

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34388 of 2022

Arising Out of PS. Case No.-162 Year-2022 Thana- BAHERA District- Darbhanga

MD KAMRAN KHAN @ KAMRAN KHAN S/o Neyaz Ahamd Khan @
Neyaz Khan @ Laddan Resident of Village- Ashapur, Post Office and Police
Station- Bahera, District- Darbhanga.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sarva Deo Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 30-09-2022 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing in view of the
COVID 19.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with Bahera P.S. Case No. 162 of 2022 for the offences under
Sections 307, 323, 341, 353, 504/34 of the Indian Penal Code.

The allegation in the FIR is that, the petitioner and
other accused persons assaulted the informant inasmuch as
allegation against the petitioner is that he gave iron rod injury
on his head as a result whereof he fell down and thereafter
further allegation of assault on his back and leg are there.



In this case, case diary was called for on 12.9.2022 which has since been received.

Continuing the submission that was put forward on the earlier occasion, Mr. Sarva Deo Singh submits that the first injury report of the Primary Health Centre who examined the victim 'chowkidar', clearly shows that there is abrasion near the eye as also fracture of ribs. In other word, the Doctor did not find any injury on the head although, there is a direction for X-ray of skull. He as such submits that against the specific allegation made in the FIR that he gave iron rod blow to the victim 'chowkidar' on his head, in absence of any injury, it can be assumed that he has been falsely implicated in this case. He submits that in this background, the subsequent medical report that also forms part of the case diary has to be rejected.

Per contra, learned APP submits that the witnesses during the course of investigation have found injury on the head which cannot be ignored and which supports the prosecution story.

In reply, learned counsel for the petitioner reiterates that when the Medical Officer of the Primary Health Centre did not found any injury on the head and/or recorded the same in the injury report, it will have primacy over the tutored statements in



the case diary. He lastly submits that petitioner is in custody immediately after the occurrence from 30.4.2022 and is a student of 24 years and has already suffered and be given a chance to reform himself for the long life that he has ahead.

Taking into account the aforesaid submissions put forward by the rival parties as also the fact that the allegations made therein in the FIR does not find support in the medical injury report that forms part of the case diary and issued by the Primary Health Centre, as also that the petitioner is 24 years of age, charge-sheet stands submitted and is in custody since 30.4.2022, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I Benipur, in connection with Bahera P.S. Case No. 162 of 2022 subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive



dates without plausible reason will entail cancellation of his/her bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Ravi/Ajay Singh

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