

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47204 of 2021

Arising Out of PS. Case No.-24 Year-2021 Thana- RAIYAM District- Darbhanga

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Mohan Thakur, Son of Shila Kant Thakur, Resident of Village- Chhachha,
P.S.- Raiyam, Dist.- Darbhanga. ... Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate

For the Opposite Party/s : Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-06-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Sanjeev Ranjan, learned counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner is apprehending his arrest in connection with Raiyam P.S. Case No. 24 of 2021 for the offences punishable under Sections 341, 323, 324, 307, 379, 354, 504, 506/34 of the Indian Penal Code.

As per prosecution case, it is alleged that on 19.05.2021 while the son of the informant was returning, the petitioner along with others intercepted him and it is alleged that the petitioner and other co-accused assaulted him by means of Tengari, Iron rod and Danda. It is further alleged that when the informant and his daughter arrived there on hearing hulla, all the above named accused persons including the petitioner assaulted



both of them and this petitioner has also assaulted the informant Brij Mohan Thakur with Tengari over his head, due to which he sustained serious injuries. It is also alleged that co-accused persons snatched the valuables.

At the outset, learned counsel for the petitioner submits at the bar, on instruction of his client, that as per his information till date the process under Sections 82/83 of the Cr.P.C. have not been issued.

It is submitted by the learned counsel appearing on behalf of the petitioner that there is a case and counter case and prior to the institution of the present F.I.R. the petitioner had instituted Raiyam P.S. Case No. 23 of 2021 against the informant and his sons alleging therein that they were assaulted at the hands of the informant and his sons. It is further submitted that in fact on account of removing of tree, free fight has taken place between both the family members, due to which both the sides have sustained injuries, but the prosecution has failed to explain the injuries sustained to the petitioner and his family members. It is next submitted that from the injury report, as contained in Annexure-2 to this application, it appears that all the injuries have been found to be lacerated and as such the injury does not corroborate the prosecution case inflicting



Tengari blow, inasmuch as, this is not the case of the prosecution that the Tengari has been used by the opposite side and even if the allegation has taken at their face value, it does not constitute a case under Section 307 of the Indian Penal Code. It is further submitted that the petitioner and the informant are the members of one family and this petitioner has got clean antecedent and he is ready to give undertaking that he will abide by all the terms and conditions, which would be imposed by this Court and will not indulge in any such type of occurrence in future.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that there is specific allegation against this petitioner that he assaulted the informant by means of Tengari causing serious injuries over his head.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that there is case and counter case and the case of the petitioner has been instituted on earlier point of time, apart from the fact that the injuries have been found to be lacerated and it does not corroborate the case of prosecution inflicting Tengari blow, inasmuch as, there is a free fight, which has taken place between



both the parties and the informant has failed to explain the injuries sustained to the petitioner and his other family members and moreover this petitioner is having no criminal antecedent, let the petitioner named above, be released on bail, in the event of his arrest or surrender before the court below within eight weeks from today, on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate-V, Darbhanga in connection with Raiyam P.S. Case No. 24 of 2021 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure with the following conditions:

(i) One of the bailors shall be the close relatives of the petitioner.

(ii) The petitioner will cooperate in the investigation as well as in conclusion of the trial.

(iii) He will not try to tamper with the evidence or intimidate the witnesses in course of investigation or during the course of trial.

(Harish Kumar, J)

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