

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46900 of 2021

Arising Out of PS. Case No.-29 Year-2021 Thana- MADHUBAN District- East Champaran

Shyam Kumar Singh S/O Late Ramnath Singh R/o village- Mogalniya, P.S.-
Madhuban, District- East Champaran at Motihari

1003

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Binay Kumar, Advocate.
For the State	:	Mr. Pramod Kumar Pandey, APP.
For the Informant	:	Mr. Vijay Shankar Srivastava, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 18-04-2022 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 learned counsel for the petitioner, learned counsel appearing on behalf of the informant and 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 Madhuban P. S. Case No. 29 of 2021 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307, 302, 504, 506 and 120(B) of the Indian Penal Code.

As per the prosecution case, it is alleged that on



02.02.2021, while the brother of the informant, namely, Vinay Kumar Singh was going on his vehicle, all the F.I.R. named accused persons including this petitioner and 18-20 unknown persons holding *farsa* in their hands pulled him down from the vehicle and Tinku Kumar Singh, Vikas Kumar Singh and this petitioner, Shyam Kumar Singh started assaulting the brother of the informant by *Farsa* upon which he fell down and thereby all the accused persons assaulted him with *Lathi*, *Danda*, *Farsa* and iron rod.

Learned counsel appearing on behalf of the petitioner submits that there are general and omnibus allegation against all the accused persons. There is neither specific allegation nor any overt act has been levelled against any person. Learned counsel for the petitioner draws the attention of this Court towards the post mortem report, which clearly suggests that out of three external injuries found over the body of the deceased, two injuries in the nature of abrasion have been found on the left hand and left knee. So far third injury is concerned, that has been inflicted on the skull lacerated in nature and it is opined that all the above noted injuries were caused by hard and blunt substance, as per the post mortem report. It is also submitted that the allegation levelled in the



F.I.R. does not corroborate with the post mortem report. It is next submitted that there is counter version of this case, which has been subsequently instituted by the petitioner and brought on record as Annexure 2. It is further submitted that this petitioner has clean antecedent and he is in custody since 10.02.2021, apart from the fact that the investigation has already been concluded and the charge-sheet has already been submitted. It is next submitted that even during the course of investigation, none of the witnesses has stated with regard to any specific overt act against this petitioner. The case has also been supervised and it has been found that both the parties are in inimical terms due to settlement of a pond and even on the alleged date of occurrence, the informant side had come to the pond in order to protest fishing and on the pond also some scuffle had taken place. Later on, this occurrence has also taken place.

On the other hand, learned counsel appearing on behalf of the informant vehemently opposes the bail application and has categorically submitted that, in fact, there is specific allegation against three persons including this petitioner, giving *farsa* blow and there is injury on the head of the brother of the informant. It is also submitted that the counter version, which



has been filed by this petitioner is nothing but only in order to save his own skin.

Learned counsel appearing on behalf of the State also opposes the bail application but accepted the fact that the post mortem report does not fully corroborate with the prosecution story.

Having heard the parties and taking into consideration the fact that there is general and omnibus allegation against all the F.I.R. named accused persons and against 18-20 unknown persons. Moreover, the post mortem report clearly suggests that all the injuries have been caused by hard and blunt substance on non vital part, except only one injury which has been found on the skull of the deceased, is lacerated in nature, in as much as this petitioner is in custody since 10.02.2021 and moreover, the investigation has already been concluded and the charge-sheet has also been submitted, 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 Judicial Magistrate 1st Class, Motihari, East Champaran in connection with Madhuban P. S. Case No. 29 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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