

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39953 of 2022

Arising Out of PS. Case No.-101 Year-2022 Thana- RAGHOPUR District- Vaishali

LALBABU RAY so of Ramshobhit Ray, resident of village Mohanpur (ward no. 5), P. S. Raghapur, District Vaishali.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarbottam Kumar Sarkar, Advocate.

For the Opposite Party/s : Mr. Satyendra Prasad Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 25-08-2022 Today this case has been listed on the motion slip
filed by the learned counsel for the petitioner.

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. Sarbottam Kumar Sarkar, 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 Raghapur P. S. Case No. 101 of 2022
registered for the offences punishable under Sections 147, 148,
149, 341, 323, 307, 302 of the Indian Penal Code.

As per the prosecution case, it is alleged that on
21.03.2022 at about 02:30 P.M., while the meeting was held at
Mohanpur Maharani Asthan between the petitioner and the



informant, who happens to be agnates/*gotiya* of the accused persons, on the dictate of this petitioner, they started assaulting the father of the informant and thereafter, when Umesh Ray, Vijay Ray and Nitish Kumar came for rescue, they were also assaulted by the accused persons. It is further alleged that the father of the informant, later on, during the course of treatment succumbed to the injuries.

Learned counsel appearing on behalf of the petitioner submitted that there is general and omnibus nature of allegation against all the accused persons and so far the petitioner is concerned, at best there is allegation of member of a mob and order giver. It is not alleged that the petitioner has made any overt act against any of the persons. It is further submitted that in fact, on account of land dispute, a free fight has taken place in which the petitioner and his family members have also sustained injuries, however, the prosecution has failed to explain the injuries sustained to the petitioner and this fact has also been corroborated by the arrest memo, which suggests that the petitioner was arrested from NMCH, during the course of treatment, who had sustained head injury. It is next submitted that there is a counter version of the present case instituted on the basis of *fardbayan* of the petitioner being Raghopur P. S.



Case No. 102 of 2022. It is last submitted that the petitioner is an old person aged about 77 years, having fair antecedent, is in custody since 25.03.2022 and after completion of the investigation, the charge sheet has been submitted.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner has actively participated in the crime and in fact, on the dictate of the petitioner, the entire occurrence has taken place.

Having considered the submissions made on behalf of the parties and taking into account the fact that save and except the allegation of order giver, there is no allegation of assault against the petitioner and moreover, there was a free fight in which members of both the sides, who are own *gotiya* have sustained injuries and there is a counter version of the present crime, 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, Vaishali at Hajipur in connection with Raghapur P. S. Case No. 101 of 2022, 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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