

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41306 of 2022

Arising Out of PS. Case No.-261 Year-2021 Thana- BAIRIYA District- West Champaran

Pradeep Sah @ Pradeep Kumar, Son Of Late Badri Sah, Resident Of Village-
Bairiya, P.S.- Bairiya, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate

Mrs. Preety Kunwar, Advocate

For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 14-10-2022 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Bairiya P.S. Case No. 261 of 2022 registered
for the alleged offences under Sections 341, 323, 324, 379, 504,
302 and 34 of the Indian Penal Code.

As per prosecution case, in the background of long
standing land dispute, the petitioner and other co-accused
persons came to the shop of the informant and told him to
vacate the shop. Thereafter, he was assaulted with slaps and
fists. When the brother of the informant tried to save him, this



petitioner gave a *farsa* blow on the head of the brother of the informant, who fell down and his head was fractured. The assailants also caused injury to the maternal aunt (*mami*) of the informant. Later on, the brother of the informant succumbed to his injuries.

The learned senior counsel for the petitioner submits that no occurrence as alleged has ever taken place. Both the parties are close relatives and agnate and there was a land dispute between the parties and they were contesting Title Suit No. 16 of 1988 and it was decreed in favour of the petitioner's side. Thereafter, the informant side also lost in Title Appeal NO. 58 of 1993 for the land on which the shop is situated. The informant side tried to grab the land forcibly which was objected by the petitioner and the informant side committed serious criminal act as aggressor and the petitioner lodged an FIR bearing Bairiya P.S. Case No. 260 of 2021 under Section 307 of the IPC against the informant side. Thereafter, the instant case has been lodged. Learned senior counsel further submits that the injury report shows all the injuries were simple and for this reason the initial FIR was registered only under Sections 323, 324, 379 and 34 of the IPC. The victim died after 15 days of the alleged occurrence. Moreover, allegedly the petitioner



gave *farsa* blow to the brother of the informant but only lacerated wound was observed on the head of the brother of the informant. Moreover, the doctor has not given any reason for cause of death in post-mortem report. The viscera has been preserved and cause of death has been kept pending till the report of chemical analysis. The FIR has also been registered belatedly after two days for which there is no explanation. The petitioner is in custody since 15.05.2022 and the charge-sheet has been submitted in this case. The petitioner has got clean antecedent.

Learned APP opposes the prayer for bail submitting that there is specific allegation against this petitioner that he gave *farsa* blow on the head of the brother of the informant, who subsequently died during his treatment.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that death has not been stated to be caused due to any of the injuries and the injury report as well as post-mortem report did not show any incised wound or deep cutting wound for which allegation has been made against the petitioner and also taking into consideration the previous land dispute between the parties as well as case and counter case between them and possibility of false implication, the petitioner above named is directed to be



released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-III, Bettiah, West Champaran in connection with Bairiya P.S. Case No. 261 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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