

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59465 of 2021

Arising Out of PS. Case No.-231 Year-2018 Thana- BIRAUL District- Darbhanga

RAM CHANDRA YADAV, Son of Jainath Yadav Resident of Village - Barhi,
P.S.- Biraul, District - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Abhay Kumar Singh
For the Opposite Party/s :	Mr. Dr. Ajeet Kumar
	Mr. Madhav Roy

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 18-05-2022 Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two weeks of the complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with Biraul P. S. Case No. 231 of 2018 for the offence punishable under Sections 147, 148, 149, 447, 341, 323, 324, 379, 307 and 504 of the Indian Penal Code.

The prosecution case, in brief, is that when the informant was digging his land to construct septic tank, the same was objected by the petitioner and on protest, they were indulged in hot talks, which led this petitioner to assault the



informant with intention to kill him. The informant sustained injury on his head, corroborated with the injury report that the same has been caused by hard and blunt substance.

Learned counsel for the petitioner submits that both the parties were on inimical terms and the petitioner had objected not to dig tank in his portion of land, which led to scuffle and in defence, without any intention such injury was caused on the head of the informant. He further submits that the medical report do not support the injury which was caused by the petitioner. F.I.R. has been lodged by the present informant who has sustained injury and he with his own eyes has seen that the petitioner has assaulted him with *Farsa* which is a sharp edged weapon. The very allegation levelled against the petitioner is not sustainable as per the opinion of the Doctor.

Learned counsel for the informant, Shri Madhav Ray submits that the petitioner has suppressed his criminal antecedents in paragraph no. 3 of the bail application. He has not made any reference of the complaint case filed before the Chief Judicial Magistrate, Darbhanga. He further submits that as per the opinion of the Doctor, injury has been caused by hard and blunt substance and there is every suspicion that the petitioner would have assaulted the informant from the back



side of *Farsa* which can only cause such injury and therefore even from the injury report, the petitioner cannot be absolved that he has not assaulted the victim. In the present case, he is the informant and the eye-witness. He further submits that there is every chance of tampering the evidence and influencing the witnesses by the petitioner, if he be released on bail.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner.

Having heard the rival submissions, the allegation made in the F.I.R. is that the petitioner was possessed with *Farsa* with intention to kill the informant. He assaulted him with means of *Farsa* on the head of the informant. The injury report, which has been extracted in paragraph no. 15 of the counter affidavit, is as follows:

“15. A. Sri Ram Punit Yadav, aged about 50 years son of Shri Ram Sogarath Yadav: -

1. Lacerated wound 2.5 CM x 0.5 CM scalp thickness over RT tacepara – parietal juctem of skull

2. Lacerated would 1.5 CM x 0.5 CM x bone thickness RT middle finger

Opinion of the Doctor is : -

- Injury 1 is simple and



- Injury 2 is Grievous caused by Hard blunt object”

B. Shri Ram Sagarath Yadav – aged about 58 years,
s/o Shri Ram Swarup Yadav: -

1. Lacerated wound RT Fronto-parietal area of scalp
measuring 5 cm x 1 cm x scalp deep.”

Opinion of Doctor is : -

Injury 1 is grievous by hard blunt substance.”

It appears from the injury report that the injury is grievous in nature and has been caused by hard and blunt substance, which raise suspicion that the same has been caused from the back side of *Farsa*. The charge-sheet in this case has been submitted. There is no question of tampering with the evidence or influencing the witnesses. The petitioner has remained in jail since 05.07.2021.

The law is well settled that medical evidence will prevail over the allegation made in the F.I.R. In the present case, the informant is the eye-witness and he has alleged that the petitioner was possessed with *Farsa* which is a sharp cutting weapon and injury caused by *Farsa* may be grievous in nature. The nature of injury have been opined by Doctor to be caused by hard and blunt substance and *prima facie* it appears that the petitioner has made out a case to be released on bail.



Considering the aforementioned facts and circumstances of the case, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M. -II, Biraul, Darbhanga in connection with Biraul P. S. Case No. 231 of 2018 subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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