

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60719 of 2021

Arising Out of PS. Case No.-186 Year-2021 Thana- KHAIRA District- Jamui

Bhitho Yadav, Son of Late Lachhu Yadav, Resident of Vill- Kageshwar, P.S.-
Khaira, District- Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate
		Mr. Ram Sumiran Rai, Advocate
For the Opposite Party/s	:	Mr. Chandra Sen Prasad Singh, APP
For the Informant	:	Mr. Kumar Prabhakar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 27-04-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard learned senior counsel for the petitioner and learned APP for the State as well as learned counsel for the informant.

The petitioner seeks regular bail, who is in custody in connection with Khaira P.S. Case No. 186 of 2021 (G.R. No. 1606 of 2021) for the offences punishable under Sections 147, 148, 149, 323, 326, 307, 302, 504 of the Indian Penal Code and Section 27 of the Arms Act.

As per prosecution case, it is alleged that on 11.06.2021 all the named accused persons armed with Tangi,



Pistol, Farsa and Sword came, started abusing and when it was protested Tripurari Yadav assaulted Ravindra Yadav (husband of the informant) over his head by Sword. It is further alleged that Pappu Yadav opened fire upon Ishwar Yadav, which hit on his chest. Doman Yadav also assaulted by Tangi and Kapil Yadav gave order to assault all the persons and it is further alleged that Sword was provided by Lukhiya Devi. Later on, Ravindra Yadav succumbed to the injury.

It is submitted on behalf of the learned senior counsel appearing on behalf of the petitioner that there is no allegation of any overt act attributed against this petitioner, who is aged about 70 years and both the parties are Gotias. It is next submitted that though the informant in her restatement before the police has alleged that this petitioner gave Barchhi blow to one Ishwar Yadav, who happens to be the father-in-law of the informant.

A supplementary affidavit has been filed on behalf of the petitioner bringing on record the injury report of Ishwar Yadav. From perusal of the said injury report, it appears that the said Ishwar Yadav was examined by the Medical Officer, Khairi and three injuries have been found. Injury no.1 is lacerated in nature caused on hip and further two injuries are said to be



abrasion on elbow and wrist of the injured and all the injuries have been found to be simple in nature. On this score, learned senior counsel for the petitioner submits that the entire prosecution allegation against this petitioner is not corroborated or substantiated. It is lastly submitted that the petitioner has clean antecedent and he is in custody since 11.08.2021, apart from the fact that investigation has been concluded and the charge-sheet has also been submitted in this case.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that this petitioner has shared common intention and was a member of unlawful assembly and in the said occurrence, the husband of the informant also died. It is also submitted that prior to the alleged occurrence, the deceased Ravindra Yadav had filed informatory petition on 08.12.2020 apprehending danger at the hands of the accused persons.

Learned APP also submitted that there is specific allegation that this petitioner has participated in the said occurrence and during the course of investigation it has come that he gave Barchi blow to the injured Ishwar Yadav.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that there is no



specific allegation against this petitioner in the Fardbeyan given by the informant, who was the eye witness. However, even as per her restatement it is alleged that this petitioner gave Barchhi blow on the Panjara of Ishwar Yadav, which also does not corroborate by the injury report, as there is no injury caused by Barchhi and all the injuries have been found to be simple in nature, apart from the fact that the petitioner is aged about 70 years having fair antecedent and is in custody since 11.08.2021 and, moreover, there is no allegation levelled by the counsel for the informant as well as the State that the petitioner is indulged in tampering with the evidence and intimidating the witnesses, let the petitioner, named above, 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 Chief Judicial Magistrate, Jamui in connection with Khaira P.S. Case No. 186 of 2021 subject to the condition that one of the bailors will be the close relatives 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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