

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64514 of 2021**

Arising Out of PS. Case No.-338 Year-2020 Thana- KHIJARSARAI District- Gaya

Chandan Manjhi @ Chandan Kumar Manjhi @ Chandan Kumar Son Of Vijay Manjhi @ Dilip Manjhi Resident Of Village - Hajichak, P.S.- Khijarsarai, Distt.- Gaya.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Nikhil

For the Opposite Party/s : Mr. Aditya Narayan Singh.1

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 31-03-2022 Heard learned counsel for the petitioner and learned APP for the State.

The petitioner seeks bail in a case registered for the offences punishable under Sections 341, 342, 323, 307, 337, 338, 448, 504, 506, 34 of the Indian Penal Code and later on, Section 302 of the I.P.C. was also added.

The learned counsel for the petitioner submits that the petitioner is in custody since 19.04.2021, charge-sheet has been submitted in this case and has antecedent of one case.

The learned counsel for the petitioner further submits that the informant alleges that on 02.11.2020 at 7.30 P.M. while she was having dinner with her family members when all the 16 accused persons including the petitioner entered her house and



assaulted Santosh, Sunil and Upendra. It is further alleged that petitioner along with named accused persons assaulted Budhhan Chaudhary, who sustained injury on his head. Further the informant was also assaulted leading to injury on his head. Thus, alleges that the accused persons were armed with lathi, danda and rod and the occurrence had taken place on account of quarrel amongst the children.

The learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that though it is alleged that accused persons assaulted the side of the informant, but then the allegations are general and omnibus in nature and there is no specific allegation of assault against any of the accused persons. Learned counsel further submits that the statement of the injured and Santosh Yadav was recorded in the case diary at Paras-5 and 6, but they also have not stated specifically that who assaulted whom rather as per their statement, the allegation of assault is general and omnibus in nature. It is further submitted that from the side of the petitioner also Khijersarai P. S. Case No.339 of 2020 under Sections 307, 325 and other Sections of the I.P.C. was instituted against the side of the present informant in which the persons from the side of the petitioner had also suffered injury.



The learned counsel further submits that no doubt, Budhan Chaudhary died on account of assault, but then in nature of the allegation as alleged in the F.I.R., it is difficult for the purposes of bail to state with certainty that it was this petitioner, who assaulted the deceased. The learned counsel submits that similarly situated co-accused Vijay Manjhi was granted bail by order dated 23.03.2022 in Cr. Misc. No.56460 of 2021. It was pointed out by the learned counsel for the petitioner that in the order dated 23.03.2022, it appears that inadvertently at Page-3, it has been recorded that Upendra Chaudhary died when it was Budhan Chaudhary on account of assault died.

Learned A.P.P. opposes the bail application, but is not able to meet the submission of the learned counsel for the petitioner with regard to the statement made by the injured at Paras-5 and 6 of the case diary and also that the allegation of assault is general and omnibus in nature.

Considering the fact that the petitioner is in custody, charge-sheet has been submitted in this case, has antecedent of one case and taking into consideration the submission made by the learned counsel for the petitioner, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with



two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Sessions Trial No.288 of 2021/ 14 of 2021 arising out of Khizersarai P. S. Case No.338 of 2020.

The application stands allowed.

(Satyavrat Verma, J)

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