

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68420 of 2021

Arising Out of PS. Case No.-64 Year-2021 Thana- BHAPTIAHI District- Supaul

Sanjay Mehta @ Sandeep Mehta @ Sanjay Kr. Mehta, S/o- Shyam Nandan Mehta, R/o Village- Dahupattee, Ward No. 08, P.S.- Bhaptiyahi, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nafisuzzoha, Advocate
For the Informant	:	Mr. Murari Narain, Advocate
For the State	:	Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 20-09-2022 Heard learned counsel for the petitioner and learned APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Bhaptiyahi P.S. Case No. 64 of 2021 (S.T. No. 227 of 2021) registered for the alleged offences under Sections 341, 323, 427, 307, 504 and 34 of the Indian Penal Code.

As per prosecution case, the petitioner and other co-accused persons armed with *lathi danda farsa* rod and knife, came to the house of the informant and started demanding extortion money. They assaulted the informant and his family members causing a number of injuries to them. They also looted



the post office being run in the house of the informant. The allegation against this petitioner is that he gave *farsa* blow on the brother of the informant.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated due to land dispute. The whole prosecution story is absurd and it has been fabricated. There is a case and counter case between the parties and for the same occurrence, the petitioner has lodged Bhaptiyahi P.S. Case No. 65 of 2021 under sections 147, 148, 341, 323, 379 and 354(A) of the Indian Penal Code against the informant and his family members. It is a case of free fight between the two sides over construction of drainage and both sides received injuries. The brother of the informant was examined at Referral Hospital, Raghapur at Supaul and only one injury was found on his person that too caused by hard and blunt substance which falsifies the allegation of assault by means of *farsa*. It also shows that there was no repetition of blow and there was no intention to kill the victim. Hence, no offence under Section 307 would be made out against this petitioner. Learned counsel further submits that victim did not go to any government hospital rather went to private hospital where he got prepared a manipulated injury report showing it to be grievous.



Moreover, in a case of free fight, it is difficult to say who caused which injury and in what manner. The petitioner is in custody since 17.06.2021 and charge-sheet has been submitted. The petitioner has got clean antecedent.

Learned APP and learned counsel for the informant opposes the prayer for bail submitting that injury report issued by Shivam Hospital shows the injury is to be grievous.

Perused the records.

Having regard to the submissions made hereinabove and considering the case and counter case between the parties and injury report showing injury to be caused by hard and blunt object and no allegation of the repetition of blow against this petitioner and further considering the period of custody along with his clean antecedent, 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 District Judge, Supaul in connection with Bhaptiyahi P.S. Case No. 64 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be Santosh Kumar Mehta, brother-in-law of the petitioner, who has



sworn the affidavit in this case.

(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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