

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21727 of 2022

Arising Out of PS. Case No.-134 Year-2021 Thana- DARAUNDA District- Siwan

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KRISHNA YADAV Son of Late Mundar Yadav Resident of Village - Pipara,
P.S. - Daraunda, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary

For the Opposite Party/s : Mr.Anant Kumar I

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 12-01-2023 Let the defect(s), as pointed out by the office, be

removed within a period of four weeks from today.

Heard learned counsel for the petitioner and

learned A.P.P. for the State.

The petitioner seeks bail in connection with

Daraunda P.S. Case No. 134 of 2021 registered for the offences

punishable under Sections 341, 323, 324, 307, 380, 354, 504

and 34 of the Indian Penal Code.

As per prosecution case, it is alleged that the

petitioner assaulted the informant upon his head thrice by means

of Garasa as a result of which victim sustained injury on head.

Learned counsel for the petitioner submits that

petitioner is in custody since 20.01.2022 as mentioned in

impugned order. Petitioner bears no criminal antecedent. Charge



sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that there is a case and counter case between both the parties on same date of occurrence and free fight cannot be ignored as both side sustained injury. Learned counsel submits that the allegation made against the present petitioner is not supported by injury report mentioned in Para 47 of case diary as injury upon the head of informant is single injury though the allegation is that there is tripple striking upon the head by means of Garasa. From perusal of the F.I.R. itself, the informant side went to the house of petitioner and upon the protest the dispute has been arisen and everything has been happened in spur of the moment so there was no intention to kill rather to drive out the informant from the place of dispute. Learned counsel further submits that there is a case and counter case between the parties, in this context facts are generally exaggerated. Moreover petitioner is handicapped as mentioned in Annexure – 5 of the bail petition. Prudently and pragmatically it cannot be possible by the petitioner who himself a handicapped to strike thrice on the head of informant.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner that there is a direct



allegation against the petitioner.

Considering the facts and circumstances of the case as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, keeping in view clean antecedent of the petitioner, there is a case and counter case between the parties, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate - 1st Class, Siwan in connection with Daraunda P.S. Case No. 134 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to



move for cancellation of bail.

(Alok Kumar Pandey, J)

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