

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31540 of 2022

Arising Out of PS. Case No.-25 Year-2022 Thana- BELHAR District- Banka

Vikash Mandal @ Vikash Kumar Mandal, Son of Late Narsingh Mandal, R/O
Village- Madhuban, P.S.- Belhar (Kheshar), District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Praveen Kumar, Advocate
For the Opposite Party/s :	Mr. Satyendra Narayan Singh, APP
For the Informant :	Mr. Arun Kumar Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 25-01-2023 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 Mr. Praveen Kumar, learned counsel appearing on behalf of the petitioner, Mr. Arun Kumar Tiwary, learned counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Belhar (Kheshar) P.S. Case No. 25 of 2022 registered for the offences punishable under Sections 341, 323, 307, 386, 504, 506/34 of the Indian Penal Code.

The prosecution case is based on a written report filed by the informant alleging therein that while the informant was purchasing some materials, in the meantime, the petitioner along with others came on motorcycle and started assaulting the informant. It is specifically alleged that this petitioner assaulted the petitioner by means of *lathi* and demanded a ransom of Rs. 2



lakhs and also threatened with dire consequences. It is further alleged by the informant that a piece of land appertaining to Khata No. 441, Khesra No. 2501, Thana No. 85 was given by one Kapri for construction of Kheshar Police Station to the Government of Bihar, by way of gift and registry was done, however, the petitioner along with others wanted to forcibly grab the land.

Learned counsel appearing on behalf of the petitioner submits that the institution of the case is to be looked in the background of the fact that a Title Suit No. 39 of 2003 has been instituted by the father of the petitioner against the said Kapri @ Sharkar Kapri, who is defendant in the said suit and allegedly has given land by way of gift to the Governor of Bihar though the said land belonged to the father of the petitioner. He further submits that from the FIR it appears that the petitioner is allegedly assaulted the informant by means of *lathi*, however, from the injury report it is evident that all the injuries have been found to be simple in nature and no injury has been found over any vital part of the body and, as such, the ingredients of Section 307 of the Indian Penal Code in not fulfilled, apart from the fact that no money has been transferred and, as such, Section 386 of the Indian Penal Code is also not fulfilled inasmuch, as



the same is triable by the Magistrate. He next submits that as the dispute is in between the petitioner and the police personnels, in respect to the land, which has been given to the Police Station and the same is being contested by the father of the petitioner and, as such, the petitioner has been falsely implicated in the various cases, the descriptions of which have been duly mentioned in paragraph no. 3 of the application. He next submits that the petitioner is ready to give undertaking that he will fully co-operate in the trial till its conclusion. He lastly submits that the petitioner is in custody since 10.02.2022, and, moreover, the investigation of the crime is already complete.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the petitioner is a horrendous criminal of the locality as is evident from the fact that he is found involve in fourteen criminal cases, apart from the fact that the trial has already been commenced and his release would certainly hamper the trial and delay its disposal. He next submits that the informant was brutally assaulted at the hands of the petitioner, however, he anyhow saved his life and if the petitioner would be released on bail, he his life is at danger.

Learned APP for the State also opposes the bail



application.

Regard being had to the submissions made on behalf of the parties and considering the fact that the allegation of assault has been levelled against two of the accused persons, however, all the injuries have been found to be simple in nature, further the injury has been sustained on a non vital portion, apart from the fact that the institution of the FIR is in the background of a land dispute, wherein the father of the petitioner is the plaintiff. So far the criminal cases are concerned, learned counsel for the petitioner submits that the petitioner is on bail in all the cases and, moreover, criminal antecedent of a person cannot be the sole ground to keep him behind the bar for indefinite period. In view of the aforesaid facts, 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 learned Judicial Magistrate, 1st Class, Banka in connection with Belhar (Kheshar) P.S. Case No. 25 of 2022, 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.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(vi) The petitioner will mark his attendance on first week of every month in the office of Superintendent of Police, till one year or up to the conclusion of the trial, whichever is earlier.

The copy of this order is communicated to the Superintendent of Police.

(Harish Kumar, J)

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