

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32232 of 2023

Arising Out of PS. Case No.-54 Year-2022 Thana- TANKUPPA District- Gaya

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Mukesh Yadav Son of Late Rameshwar Yadav Resident of village -
Bhagatchak, P.S.- Tankuppa, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Naveen Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 13-07-2023 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State.

2. Let the defect(s), if any, be removed within a period

of four weeks from today.

3. The petitioner seeks bail in connection with

Tankuppa P.S. Case No. 54 of 2022 registered for the offence

under Sections 147, 149, 341, 342, 323, 324, 325, 307, 354,

379, 504, 506 of the Indian Penal Code (in short 'I.P.C.').

4. The accused/petitioner is named in the F.I.R. and is

in custody since 12.12.2022.

5. The allegation against the petitioner is to assault

informant and others causing bodily and head injuries, having

intention to cause their death, where occurrence arises out of

land dispute.



6. Learned counsel appearing on behalf of the petitioner submitted that the nature of injury is not the exclusive criteria to make out a case, *prima facie*, under Section 307 of the I.P.C., where prime consideration is the intention to cause death, which is lacking in present facts and circumstances as from the narration of F.I.R. it can be gathered safely that assault was not made repeated without having any intervening circumstances. It is submitted that implication is out of long-standing land disputes, where occurrence is also free fight in nature, where both parties received injuries but fairly conceded that the petitioner shall not lodge any counter case of this occurrence. It is also pointed out that petitioner was released on provisional bail in terms of the order dated 19.05.2023 on occasion of marriage of his daughter, where provisional bail was till 22.06.2023, but it could not be listed. Learned counsel relied upon the report of *Sundeep Kumar Bafna vs. State of Maharashtra & Anr.* reported in {2014(16) SCC 623} as it was decided through Cr. Appeal No. 689 of 2014 dated 27.03.2014 by Hon'ble Supreme Court where it has been held that in such a case Court shall presume the constructive custody of petitioner as to entertain the petition under Section 439 of the Cr.P.C., being concurrent jurisdiction. While concluding the argument, it has been



submitted that petitioner found involved in one more criminal case, where he is on bail and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP duly assisted by learned Counsel appearing on behalf of the Informant while opposing the bail fairly conceded that petitioner was on provisional bail.

8. Considering the above facts and circumstances, provisional bail of petitioner is hereby confirmed with same bailors and sureties as furnished.

(Chandra Shekhar Jha, J)

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