

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32399 of 2022

Arising Out of PS. Case No.-399 Year-2021 Thana- NAUTAN District- West Champaran

Birendra Sah Son Of Late Mahadeo Sah Resident of Village - Banhaura Sota
Tola, P.s.- Nautan (Jagdishpur), Distt.- West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanchay Srivastava, Adv.

For the State : Mr. Syed Ehteshamuddin, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

8 08-02-2023 Heard learned counsel for the petitioner and the learned
APP for the State.

The petitioner seeks bail in connection with Jagdishpur (Nautan) PS Case No. 399 of 2021, dated 15-10-2021, registered for the offences punishable under Sections 147,148,149, 341, 323, 324, 307, 504 and 302 of the Indian Penal Code.

The First Information Report (*for brevity FIR*) contains allegation that the petitioner has assaulted one Yamuna Sah by a '*Farsa*' on his head.

It is submitted by learned counsel for the petitioner that reading of the FIR reveals the allegations are founded on some land dispute. The FIR has been lodged on 15/10/2021 in respect of the assault alleged on 09/10/2021. Yamuna Sah, whom the petitioner is alleged to have assaulted, in fact, died on 14/10/2021. Taking advantage of his death, the petitioner has been implicated on extraneous considerations arising out of admitted land dispute between the parties.

The petitioner is in custody since 16-03-2022. The petitioner has two antecedents. Out of two cases, he is on bail in



Nautan PS Case No. 490/2017.

The learned APP for the State has assisted the Court with reference to the case diary. He submits that Yamuna Sah has died after sustaining injuries by hard and blunt substance on his face and front portion of his body on 14/10/2021. Specific assault upon him is alleged against the petitioner. It is submitted that investigation is complete.

The petitioner is in custody since 16-03-2022.

Considering the rival submissions, the sequence of dates emerging from the FIR suggesting lodging of the case six days after the alleged occurrence and one day after the death of Yamuna Sah, since investigation is complete, as also the factum of admitted land dispute; and custody of the petitioner since 16-03-2022, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class Bettiah, West Champaran, in connection with Jagdishpur (Nautan) PS Case No. 399 of 2021, dated 15-10-2021, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date



he is called upon to do so by the office.

(Madhuresh Prasad, J)

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