

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37357 of 2023

Arising Out of PS. Case No.-189 Year-2017 Thana- RAMGARHWA District- East
Champaran

Binod Mahto @ Binod Kushwaha, Son of Maharaj Mahto @ Maharaj
Kushwaha, Resident of village- Baudha, P.S. - Ramgrahwa, Distt. - East
Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate
For the Opposite Party/s : Mr. M. K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 26-07-2023 Heard Mr. Vijay Shankar Shrivastava, learned counsel

appearing on behalf of the petitioner and the learned APP for the

State.

2. The petitioner is apprehending his arrest in
connection with Ramgarhwa P.S. Case No. 189 of 2017
registered for the offences punishable under Sections 147, 341,
323, 307, 354(B), 379, 504, 506 of the Indian Penal Code and
Section 3/4 of the Witch Craft Act.

3. It is alleged that while the informant and his wife
was cleaning the door, in the meantime, all the F.I.R. named
accused persons, including the petitioner, variously armed with
deadly weapon came and started abusing the informant and his
wife. It is further alleged that when the same was objected, the
petitioner made exhortation, thereupon the other accused



persons started assaulting his wife. It is specifically alleged that the petitioner assaulted Shiv Prasad Kushwaha by means of *Farsa*, due to which he sustained sharp cutting injury over his head. Further allegation has been levelled that other accused persons also assaulted by means of deadly weapon. There is also allegation of snatching of valuables of the informant and his family members.

4. Learned counsel appearing on behalf of the petitioner submits that prior to the institution of this case, co-accused Ramakant Mahto @ Ramakant Kushwaha instituted Ramgarhwa P.S. Case No. 188 of 2017 and the present case is nothing but a counter blast. He next submits that on account of previous dispute, a free fight took place between both the sides wherein the petitioner and others have also sustained serious injuries. He next submitted that the injury, which is allegedly sustained to Shiv Prasad Kushwaha is found to be simple in nature. So far the injury sustained to the informant is concerned, though it is grievous in nature, but the same has not been attributed to the petitioner. He further submits that other family members of the informant also sustained simple injuries. He lastly submits that taking note of the aforesaid facts, the petitioner was summoned under Section 41(A) of the Cr.P.C.,



however, on being taken cognizance of the offences, as alleged in the F.I.R., the apprehension of arrest has arisen, hence the present application.

5. On the other hand, learned APP for the State opposes the bail application.

6. Having regard to the submissions made on behalf of the parties and considering the fact that the injury allegedly attributed to the petitioner is found to be simple in nature, coupled with the fair antecedent and case and counter case, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Motihari, East Champaran in connection with Ramgarhwa P.S. Case No. 189 of 2017, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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