

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38392 of 2022

Arising Out of PS. Case No.-436 Year-2020 Thana- GARKHA District- Saran

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HARESH KUMAR S/O BIRENDRA RAI Resident of Village- Ismailpur,
P.S.- Garkha, District- Saran At Chapra (Bihar).

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar

For the Opposite Party/s : Mr.Abhay Kumar Roy

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 20-01-2023 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

Garkha P.S. Case No. 436 of 2020 registered for the offences

punishable under Sections 147, 148, 149, 323, 324, 379, 504

and 506 of the Indian Penal Code.

As per prosecution case, petitioner is alleged to

have assaulted Rajnath Rai by means of Dabiya indiscriminately

upon his head as a result of which Rajnath Rai sustained injury

on head and blood started oozing out.

Learned counsel for the petitioner submits that

petitioner is in custody since 27.04.2022. 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 petitioner is innocent and has committed no offence as alleged in the F.I.R. Petitioner is alleged to have assaulted Rajnath Rai indiscriminately on his head by means of Dabiya but the allegation against the petitioner is not corroborated by injury report as injury report shows that there is single blow upon the head of Rajnath Rai and other injuries are on non-vital part of the body. From perusal of the F.I.R. itself, there is a land dispute between the parties. Learned counsel further submits that there is a case and counter case between the parties on same date of occurrence and both parties sustained injury in that context free fighting cannot be ignored. In the case where there is a case and counter case, exaggeration of facts cannot be ruled out.

The learned A.P.P. for the State vehemently opposes the prayer for bail of 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, argument advanced on behalf of the parties and also



taking into consideration the material available on record, let the petitioner above named be released on bail after framing of charge 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, Saran at Chapra in connection with Garkha P.S. Case No. 436 of 2020, 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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