

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42866 of 2022

Arising Out of PS. Case No.-189 Year-2021 Thana- BASOPATTI District- Madhubani

JAGESHWAR MANDAL S/O LATE GHUTAR MANDAL Resident of
village- Khauna, P.S.- Baspatti, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Vishwanata Prasad Singh, Adv. Mr. Bhavesh Kumar Sah, Adv.
For the Informant	:	Mr. Sanjay Kumar Jha, Adv.
For the State	:	Mr.Nand Kishor Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 30-01-2023 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 assisted by learned counsel for the
informant.

The petitioner seeks bail in connection with
Basopatti P.S. Case No. 189 of 2021 registered for the offences
punishable under Sections 323, 341, 379, 325, 354(B), 308, 504,
506, 34 of the Indian Penal Code and charged under Section
447, 341, 323, 325, 354, 307, 504, 506, 34 as per the order dated
03.06.2022.

As per prosecution case, petitioner and others
armed with lathi, danda, iron rod and farsa entered the



informant's house and started abusing and assaulting all the family members of the informant. It is also alleged that petitioner alongwith others tied the neck of victim by rope and hanged her and after that the victim was saved by villagers. It is further alleged that petitioner and co-accused Karan Mandal also threatened the family members of the informant to kill.

Learned counsel for the petitioner submits that the case was lodged after seven days from the date of occurrence and no plausible explanation has been made regarding delay of lodging the F.I.R.. From the perusal of injury report of victim Sita Devi it appears that the said injury is non-grievous in nature as opined by doctor and such terminology is quite vague as well as such terminology has never been used while describing the injury report. The doctor, while describing the injury report of victim Hira Kumari mentioned that ligature mark with superficial abrasion of skin has been found and the said injury is grievous in nature. It is a matter of quite surprising that how the said injury has become grievous. Moreover, learned counsel for the petitioner submits that the petitioner is brother of informant's husband and the said fact has not been disclosed in FIR which creates doubt about the prosecution story. From the perusal of FIR, there is no specific allegation of assaulting the



family members of informant against the petitioner. He further submits that petitioner and informant's husband are own brothers and due to family dispute and land dispute family members of the petitioner have falsely been implicated in the present case. Petitioner is quite innocent and has committed no offence as alleged against him in FIR. Learned counsel for the petitioner submits that petitioner is in custody since 03.06.2022 and bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

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, period of custody, keeping in view clean antecedent of petitioner, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned J.M. Ist Class Madhubani in connection with Basopatti P.S. Case No. 189 of



2021, 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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