

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52793 of 2023

Arising Out of PS. Case No.-133 Year-2022 Thana- RAJEPUR District- East Champaran

KAMLESH RAI SON OF RAM CHANDRA RAI RESIDENTS OF
VILLAGE- FAJILPUR, PS- RAJEPUR, DISTT- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar, Adv.

For the Opposite Party/s : Mr.Md. Ataur Rahman, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 19-12-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Rajepur P.S. Case No. 133 of 2022 registered for the offences punishable under Sections 447, 341, 323, 307, 379, 504 and 506/34 of the Indian Penal Code.

3. As per prosecution case, petitioner is said to have assaulted informant's husband by means of Farsa as a result of which informant's husband sustained injury on head.

4. Learned counsel for the petitioner submits that though there is specific allegation of inflicting farsa blow upon the head of the informant's husband against the petitioner but the injury report indicates that injury is caused by hard and blunt substance which is inconsistent with the allegation made



in F.I.R. He further submits that there is a land dispute between both the parties and in the cases of land dispute, facts are generally exaggerated to make the offence graver. Petitioner has also filed counter case i.e. Rajepur P.S.Case No. 128 of 2022 which has been registered on 08.07.2022 for the occurrence of 07.07.2022 whereas the present case has been registered on 10.07.2022. Petitioner is in custody since 02.06.2023 and bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that there is no repetition of farsa blow upon the vital part of the body of the informant's husband. In the light of given facts and circumstances of the case, no case is made out under Section 307 of the I.P.C.. He further submits that Section 379 of the I.P.C. is nothing but super-addition which is ornamental in nature.

5. The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

6. 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 Judicial Magistrate Ist Class, East Champaran at Motihari in connection with Rajepur P.S. Case No. 133 of 2022, 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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