

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53743 of 2023

Arising Out of PS. Case No.-67 Year-2021 Thana- NARDIGANJ District- Nawada

BARELAL YADAV son of Jhakar Yadav Village- Dewapur Tola Asaraut Ps-
Manjhagarh Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Singh, Sr. Adv.

Mr.Ravi Prakash, Adv.

For the Opposite Party/s : Mr.Pushpa Sinha. I, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-09-2023 Heard Mr. Rajesh Kumar Singh, learned senior
counsel for the petitioner and learned counsel for the
informant as well as learned A.P.P. for the State.

The petitioner seeks bail in connection with
Nardiganj P.S. Case No. 67 of 2021 dated 13.04.2021
registered for the offence under Sections 341, 323, 354, 379,
504 and 427 of the Indian Penal Code. Later on Section
386/34 of the Indian Penal Code has been added after
submission of charge sheet by the C.I.D.

Informant alleges that while he along with his mother
were returning after puja, his vehicle somehow fell into a
ditch soon thereafter two persons came there introducing
themselves as S.H.O. and Dafadar of police station and they
were trying to bring his vehicle to the police station and on
protest thereon, the police officials raised demand to settle



the matter thereupon the informant denied upon which he was subjected to abuse and threatened by them for his false implication in a case. Accordingly, a case being Nardiganj P.S. Case No. 175 of 2020 is registered against the informant and brother based on concocted story and false and fabricated injury report. Thereafter, the informant brought the fact to the notice of District Magistrate and Superintendent of Police and Chief Medical Officer, Nawdad.

Further, it is alleged that after eight days of the incident, the petitioner along with other police officials and force of 100 in numbers surround the house of the informant and forcibly entered in his house and started assaulting the father of the informant with intention to kill. They have ransacked and damaged the household articles of the informant' house. The petitioner and another co-accused, Ram Kripal Yadav assaulted the informant with the butt of gun and thereafter the informant was brought to the police station where he was assaulted by the co-accused Ram Kripal Yadav on his face and chest by his legs and the petitioner also assaulted the informant on his chest with rifle causing him injury. Lastly, it is alleged that co-accused, Ram Kripal Yadav snatched Rs. 76000/- and ATM of the



informant. On the aforesaid facts, Nardiganj P.S. Cae No. 67 of 2021 came to be registered.

Learned senior counsel appearing for the petitioner, at the very outset, submits that the present case is nothing but an outburst of Nardiganj P.S. Case No. 175 of 2020 which was instituted against the informant and his brother alleging that the informant and others have assaulted the police officials and since the petitioner happens to be a police official, he has been dragged in the present case with bald allegations. He further submits that though according to the F.I.R. specifically the petitioner is stated to have assaulted the informant and his father with the butt of pistol and rifle, but injury available on record suggest that the injuries sustained by the informant is simple in nature caused by a hard and blunt substance and no injury report with respect to father of the informant is available on record to supplement the allegation leveled against the petitioner, which itself falsifies the narration of accusation attributed to the petitioner. He further submits that in absence of injury of father of informant, the petitioner's prosecution in the case for the alleged offence is not justified as the allegation of assault does not stand and



the petitioner, who is of clean antecedent, is languishing in judicial custody since 13.06.2023.

Learned senior counsel further drawn the attention of this Court towards the factual background of the case with respect to Nardiganj P.S. Case No. 175 of 2020 where the informant has traveled to the High Court invoking the powers of High Court under Article 226 of the Constitution of India in Cr. WJC No. 375 of 2020 which amount to multiplicity of proceeding thereon.

Learned senior counsel further addressing the incorporation of Section 386/34 of the Indian Penal Code by way of charge-sheet submitted by the C.I.D after conducting investigation in the light of the order passed by the Court in Cr. W.J.C. No. 375 of 2020 dated 13.12.2020 submits that the C.I.D. being influenced by the aforesaid order, added Section 386/34 I.P.C. just to make out complication in this case without conducting a impartial investigation of the present case. He further submits that one of the co-accused, namely, Madan Kumar Singh against whom allegation of assault is attributed, has already been granted bail by a co-ordinate Bench of this Court vide Cr. Misc. No. 32189 of 2023.

Learned A.P.P. for the State as well as learned



counsel for the informant vehemently opposed the prayer for bail of the petitioner and submits that according to the F.I.R., there appears to be direct allegation of assault by means of lathi, pistol and rifle butt attributed to the petitioner. He further submits that on bare perusal of the F.I.R. it is apparent on the face of the record that the informant has been made victim of highhandedness of police official and their atrocities. He further submits that for the alleged occurrence of 03.08.2020, the police has registered an F.I.R. as Nardiganj P.S. Case No. 175 of 2020 against the informant and his brother on 03.08.2020 itself and when the informant raised complaints to the higher officials of the police, they have committed such offence as alleged in the F.I.R.

In sum and substance, this Court after hearing the parties, comes to a conclusion that though there might be the other background of fact leading to institution of the present F.I.R. irrespective of false or genuine and the previous legal recourse taken by the informant after being aggrieved, this Court would constraint to go by the materials available on record for the purpose of bail especially with respect to the allegation leveled against the petitioner,



which, in the opinion of this Court, is lacking for the reason that the allegation of assault to the informant is supported by superficial injuries caused by hard and blunt substance and not supported by any injury report with respect to father of the informant even though he is alleged to have been stabbed by the petitioner with intention to kill him, which is a substantial piece of evidence for establishing a case of assault against the petitioner.

Considering the facts and circumstances of the case, let the, above named, petitioner 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 learned Judicial Magistrate-1st, Class, Nawada in connection with Nardiganj P.S. Case No. 67 of 2021 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) 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.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

brajesh/-

U		T	
---	--	---	--

