

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28252 of 2024

Arising Out of PS. Case No.-436 Year-2023 Thana- GAURICHAK District- Patna

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Dharmendra Rai @ Dharmendra Kumar @ Mangal Rai S/o- Nagina Rai R/o
Village - Jamalpur, PS - Gaurichak, Distt- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Kumar, Advocate
For the Opposite Party/s	:	Mr. Nirmal Kumar Sinha, APP
for the Informant	:	Mr. Shyamal Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 05-07-2024 Heard Mr. Raj Kumar, learned Counsel for the

petitioner as also Mr. Shyamal Prasad, learned counsel for the

informant and the State.

2. The petitioner is in judicial custody in connection
with Gaurichak P.S. Case No. 436 of 2023 for the offence
punishable under Sections 149, 341, 323, 324, 307, 379, 504,
506/34, 302 of the I.P.C. lodged on 27.07.2023, by the
informant, Surendra Ray.

3. As per the prosecution story, the informant has
alleged that his brother had sold soil of twenty four Kathas to
Nagina Rai and Dinesh Rai when it was protested by the
informant's side, allegation is that Dinesh Rai as also Lalu Rai
assaulted Sunil and Harendra by 'sword' and 'iron rod'



respectively. Gopal Rai assaulted the informant. Allegation against Ranjan Rai is of assaulting his son Harendra Rai, causing injury near his eyes. This followed another assault by him on the head of Harendra Rai, as a result, he became unconscious. The presence of Rahul Kumar is also there in the FIR. Accordingly, the FIR.

4. It is the case of the petitioner that a bare perusal of the FIR would show that the specific allegations have been made against Dinesh Rai, Lalu Rai, Harendra Rai and Rajan Rai of having brutally assaulted the informant's son as also on Gopal Rai of assaulting the informant. He further submits that so far as this petitioner is concerned, his presence has been shown and omnibus allegation of assault is there.

5. Learned Counsel for the informant, on the other hand, submits that subsequent investigation shows that the wife and son narrated that it was Dharmendra Rai who gave 'iron rod' blow on the head causing injury which ultimately proved fatal.

6. At this stage, learned counsel for the petitioner submits that it was Lalu Rai who repeatedly gave 'iron rod' blow on the head of the informant after he fell down on the ground and in that backdrop, the allegation against Dharmendra



Rai is only to implicate him. His submission is that it is not the case of the petitioner that Lalu Rai has no role to play in the matter. The last submission is that the petitioner do not have criminal antecedent.

7. Taking into account the aforesaid submissions put forward by the parties as also the fact that the main allegation is against Lalu Rai that he gave repeated 'iron rod' blow on the head of the informant's son which proved fatal, name of the petitioner is there, is in custody since 28.09.2023 (as stated in paragraph 4 of the petition) and do not have criminal antecedent, this Court is inclined to extend him the privilege of bail with conditions.

8. However, since there has been a killing and brutal assault has been alleged against the accused persons, the trial Court is directed to expedite the trial and conclude the same preferably within a period of one year.

9. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-VI, Patna City, in connection with Gaurichak P.S. Case No. 436 of 2023 subject to the following conditions:



(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month till the conclusion of trial to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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