

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40508 of 2024

Arising Out of PS. Case No.-239 Year-2021 Thana- GAUTAMBUDHNAGAR District-
Siwan

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Upendra Mahto, S/o- Hira Mahto, resident of village- Rauza Gaur, P.S.- G.B.
Nagar, Dist - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh, Advocate
For the Opposite Party/s : Mr.Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 03-07-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner is apprehending his arrest in connection with G.B. Nagar P.S. Case No. 239 of 2021 registered for the alleged offences under Sections 341, 323, 325, 308, 379, 504, 506/34 of the Indian Penal Code.

3. As per prosecution case, the petitioner and other co-accused persons assaulted the informant with *lathi*, *danda*, brick. Allegation against the petitioner is that he caused fracture of left hand of the informant.

4. The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The present case is counter version of G.B. Nagar P.S.



Case No.240 of 2021, which has been registered against the informant and others with an allegation of assault and theft and only to save their skin, the informant side has lodged this false case. There is allegation of assault by *lathi* against this petitioner, but there is no injury report on record which falsifies the allegation. No reason or motive has been assigned for the petitioner and other co-accused persons to assault the informant. For an occurrence dated 27.09.2021, the FIR has been lodged, after a delay of four days, i.e., on 01.10.2021 for which there is no explanation. From the facts of the case, no offence under Section 308 IPC is made out and Section 379 IPC is only super addition. The learned counsel further submits that the petitioner has been made accused in six cases, all under Excise Act, and in all such cases, the petitioner has been enlarged on bail.

5. Learned APP opposes the submission made on behalf of the petitioner.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the case and counter case between the parties and further considering the non-serious nature of allegation with possibility of false implication, let the petitioner above named in the event of his arrest or surrender before the court concerned within a



period of eight weeks from today, 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, Siwan, in connection with G.B. Nagar P.S. Case No. 239 of 2021, subject to the conditions mentioned in Section 438(2) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

V.K.Pandey/-

(Arun Kumar Jha, J)

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