

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62601 of 2024

Arising Out of PS. Case No.-297 Year-2022 Thana- CHAKIA District- East Champaran

Prem Sah @ Prem Shankar Kumar @ Premshankar Kumar S/o- Ram Sharan
Sah R/O- Dhobauliya, P.S- Chakia, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shashank Shekhar

For the Opposite Party/s : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 04-09-2024 Heard the parties.

2. The petitioner seeks bail in connection with Chakia P.S. Case No. 297 of 2022 registered for the offence under Sections 341, 323, 324, 307, 379, 504 and 34 of the I.P.C.

3. The petitioner is named in the F.I.R. and is in custody since 21.05.2024.

4. The allegation against the petitioner is to assault the informant and his family members by means of iron rod and *farsa* etc. on the head of the informant causing bodily injury which is likely to cause death, where occurrence is arising out of land dispute.



5. Learned counsel for the petitioner submitted that petitioner falsely implicated with present case due to land dispute. It is submitted that occurrence was free fight in nature where petitioner side had also received injuries and as it was free fight it can be said safely that there was no intention to cause death on the part of the petitioner. It is submitted that for the same set of occurrence petitioner side also lodged a case which was registered as Chakia P.S. Case No. 298 of 2022. The allegation against the petitioner is to assault on the head of the informant/injured, but same was not repeated without having any intervening circumstances and therefore, it can be also said safely that the petitioner was not under intention to cause death. While traveling over the argument it was submitted by learned counsel that only nature of injury is not the sole criteria to make out a case under Section 307 of the IPC rather several factors as nature of injuries, weapons as alleged to be used, the manner of assault etc. is to be taken into



consideration to make out a prima-facie case by suggesting "intention to cause death" which is the prime legal ingredient as to establish a prime-facie case under Section 307 of the IPC. In support of his submission learned counsel relied upon the legal report of Hon'ble Apex court as available through ***Jage Ram vs. State of Haryana*** as reported in ***2015(11) SCC 366***. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation of this case is completed, as such, there is no chance of tampering with the evidence.

6. Learned APP opposes the prayer of bail.

7. In view of the aforesaid facts and submissions and by also taking note of the fact as the alleged occurrence was free fight in nature, coupled with the fact that investigation of this case is completed where petitioner is in custody since 21.05.2024, accordingly, petitioner above named, is directed to be released on bail in connection with Chakia P.S. Case No.



297 of 2022 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 1st Class, East Champaran at
Motihari/concerned court, subject to the conditions as
mentioned under Section 437(3) of the Cr.P.C/ Section
480(3) of BNSS.

(Chandra Shekhar Jha, J)

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