

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60946 of 2024

Arising Out of PS. Case No.-404 Year-2023 Thana- BAHADURPUR District- Darbhanga

Md. Niralay Khan Son of Bhuttu Khan @ Aiyub Khan Resident of Mohalla -
Ganipur Tarauni, P.S.- Bahadurpur, District - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Iqbal Asif Niazi
For the Opposite Party/s : Mr.Nirmala Kumari

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 10-04-2025 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 323, 324, 341, 354(B), 379, 380, 307, 504, 506/34 of the Indian Penal Code.

3. The prosecution case, as per the First Information Report, would appear that this petitioner entered the house of the informant and tried to outrage the modesty of his wife. Upon *hulla* being raised, he made an escape. It has been further alleged that all the family members of the petitioner entered his house and subsequently assaulted the wife of the informant and took her away. There is a further allegation that the present petitioner gave a *farsa* blow on the head of the informant,



causing injury, and further, co-accused Arman Khan also gave an iron rod blow on his head whereas, Vicky Khan gave a knife blow while Maksood Khan gave a *lathi* blow to the informant. Besides co-accused, Mahboob Khan is also said to have hit the informant from the butt of his revolver while Shahrukh Khan tried to choke him.

4. Learned counsel for the petitioner submits at the outset that the occurrence is said to have taken place on 24.07.2023, whereas the First Information Report was lodged after 10 days, i.e., on 04.08.2023, for which no plausible explanation has been tendered by the informant. Learned counsel for the petitioner further submits that there is a case and counter case between the parties and a matrimonial dispute is in the background of the entire matter. It has been pointed out that the brother-in-law of this petitioner being one, Kamar Raza, had lodged Bahadurpur P.S. Case No. 400 of 2023 against the family members of the informant, fardbayan of which was recorded on 25.07.2023 at the DMCH, Surgery Ward. It is also pointed out that the sister of the petitioner, namely Saziya Khatoon, who is the co-accused in the present case, was married to Md. Arman Ali in the year 2019, who is the nephew of the present informant and a case bearing Bahadur P.S. Case No. 176 of 2021 was filed



by the present petitioner under Section 498A of the I.P.C. and Section 3/4 of the Dowry Prohibition Act against the informant and his family. The above mentioned two cases are annexed as Annexure-P/2 and P/3 to the present petition.

5. Learned APP, however, points out that there is an allegation of assault upon the petitioner and the injury report annexed at Annexure-P/5, would also show that the informant has received injuries and the nature of injury is also shown to be grievous. In response to such submission, the learned counsel for the petitioner draws the attention of this Court to the fact that so far as the assault attributed to the petitioner is concerned, the injury report would go to show that there is only a laceration present on the forehead in the occipital region and the X-ray plate report would also make it clear that it is actually the injury received on the left hand, which has caused the fracture of the 5th metacarpal, and hence, the injury is noted to be grievous. Learned APP submits that the petitioner is already accused in two other cases to which, the learned counsel for the petitioner responds that the petitioner is on bail in both the cases.

6. Considering the fact that the F.I.R. has been lodged after much delay, there is a case and a counter case and the fact that the injury attributed to this petitioner has not resulted in



a grievous injury and rather the allegation of causing the grievous injury on the left hand of the informant is attributed to someone else, let the petitioner, above named, in the event of his arrest or surrender before the Court below within four weeks, 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, Darbhanga, in connection with Bahadurpur P.S. Case No.404 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure/Section 482 (2) of the B.N.S.S., 2023 and subject to the further condition that the petitioner shall co-operate in the investigation/trial.

(Soni Shrivastava, J)

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