

**(2020) 12 PAT CK 0001**

**Patna High Court**

**Case No:** Criminal Miscellaneous No. 31778 Of 2020

Mahesh Chandra Rai

APPELLANT

Vs

State Of Bihar

RESPONDENT

**Date of Decision:** Dec. 1, 2020

**Acts Referred:**

- Indian Penal Code, 1860 - Section 147, 148, 149, 302, 307, 323, 324, 379, 504, 506

**Hon'ble Judges:** Ahsanuddin Amanullah, J

**Bench:** Single Bench

**Advocate:** Binod Kumar, Mritunjay Kumar Gautam

**Final Decision:** Disposed Of

### **Judgement**

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.
2. Heard Mr. Binod Kumar, learned counsel for the petitioner and Mr. Mrityunjaya Kumar Gautam, learned Additional Public Prosecutor (hereinafter referred to as the "APP") for the State.
3. The petitioner is in custody in connection with Bachhwara PS Case No. 126 of 2020 dated 23.06.2020, instituted under Sections 147, 148, 149, 323, 302, 324, 506 and 504 of the Indian Penal Code.
4. The allegation against the petitioner and thirteen other named and five unnamed is of assault on the nephew and son of the informant and against the petitioner specifically of having ordered his son Rakesh to kill the deceased nephew of the informant resulting in blow on the head which proved fatal.

5. Learned counsel for the petitioner submitted that the parties are agnates and there is land dispute for which a counter case, being Bachhwara PS

Case No. 127 of 2020 dated 23.06.2020, has also been filed under Sections 147, 148, 149, 323, 307, 379, 504 and 506 of the Indian Penal Code. It was

submitted that the petitioner side has also received grievous injuries in the incident. Learned counsel submitted that even as per the FIR, the petitioner

is only order-giver and though there is general and omnibus allegation of assault against all accused, but from the postmortem report, it is obvious that

only one wound has been found on the head of the deceased leading to his death which is specifically attributable, as per the FIR, to the son of the

petitioner namely co-accused Rakesh. Learned counsel submitted that the petitioner is 70 years old and just because he is the head of the family has

been falsely implicated, having no criminal antecedent and is in custody since 23.06.2020.

6. Learned APP submitted that against the petitioner and others, there is also general allegation of assault on the deceased. However, he could not

controvert that the postmortem report, which has been noted in the order of the learned Additional Sessions Judge, IX, Begusarai dated 02.09.2020 in

BA No. 803 of 2020, by which the prayer for bail of the petitioner was rejected, discloses only one injury on the head and no other injury anywhere on

the body.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail

upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief

Judicial Magistrate, Begusarai in Bachhwara PS Case No. 126 of 2020 subject to the conditions (i) that one of the bailors shall be a close relative of

the petitioner, (ii) that the petitioner and the bailors shall give an undertaking before the Court with regard to good behaviour of the petitioner. Any

violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.