

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45810 of 2015

Arising Out of PS.Case No. -110 Year- 2014 Thana -GAYGHAT District- MUZAFFARPUR

1. Birendra Kumar Sah @ Birendra Sah
2. Sunil Kumar Sah @ Sunil Sah
Both Sons of Jagdish Sah Resident of Village Shivdaha P.S. Gaighat,
District Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar Rai

For the Opposite Party/s : Mr. U.S.P.Singh(App)

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 30-10-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 147, 148, 149, 323, 324, 307, 379, 504 and 506 of the Indian Penal Code and that both the petitioners are said to have assaulted the informant Lalbabu Mishra and his brother Mithilesh Kumar, this Court is not inclined to grant privilege of anticipatory bail to the petitioners specially when they have not brought the injury report on record.

Learned counsel for the petitioners in fact relies on some prescriptions of the Darbhanga Medical College and Hospital to establish that whatever allegations of assault were made against the petitioners has also not been found to be substantiated.

This Court would not find these prescriptions to be

relevant, inasmuch as, it is the case of the prosecution that the injured people initially were taken to Primary Health Centre, Singhwara and from there they were referred to Darbhanga Medical College and Hospital.

In that view of the matter, if the petitioners appear before the court below within a period of four weeks from today, the court below shall verify the aforesaid submission of the learned counsel for the petitioners before this Court from the case diary that there is no head injury on the person of either the informant or the brother Mithesh Kumar and if it is found that there is no injury on their head, the petitioners, namely, Birendra Kumar Sah @ Birendra Sah and Sunil Kumar Sah @ Sunil Sah will be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Muzaffarpur in connection with Gaighat P.S. Case No. 110 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

(i) That both the bailors will be a close relative of the petitioners, who will undertake an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the court if there is any change in the address

of the petitioners.

(ii) That the affidavit shall clearly state that the petitioners are not an accused in any other case and if they are, they shall not be released on bail.

(iii) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(iv) That the petitioners will be well represented on each and every date in course of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

It goes without saying that in the event of injury report showing injury on the head, they shall be taken into custody and, thereafter, they will be only entitled for making prayer for regular bail.

This application is, accordingly, disposed of.

(Mihir Kumar Jha, J)

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