

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45876 of 2015

Arising Out of PS.Case No. -155 Year- 2015 Thana -BAKHRI District- BEGUSARAI

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1. Rajo Mahton @ Raju Mahton
 2. Kamal Kishore Mahton
 3. Radhe Krishna Mahton
All three sons of Late Ram Bhushan Mahton
 4. Bijay Mahton Son of Late Rajendra Mahton
 5. Bijli Mahton Son of Satya Narayan Mahton
 6. Principal Mahton Son of Gupteshwar Mahton
 7. Luro Mahton Son of Late Matukdhari Mahton
All residents of village - Bagwan, P.S. Bakhari, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Kumar
For the Opposite Party/s : Mr. Sadanand Paswan (Spl. Pp)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 02-11-2015 Heard learned counsel for the parties.

The petitioner claims to be falsely implicated in the present case for offence under Sections 447, 341, 323, 324, 379, 354, 34 of the Indian Penal Code and Section 3(x) of the SC/ST Act on the ground there is a counter version of the occurrence for the same occurrence in which the prosecution party was the aggressor and, as such, when in the earlier case filed on behalf of the petitioners, their involvement in the subsequent case filed by the informant is not only by way of developing his defence but also even otherwise is false, inasmuch as, there is no injury on the person of either the informant or her husband though a categorical allegation was made in the F.I.R. by the informant that her

husband was badly assaulted and was also taken to Primary Health Center. In this regard, learned counsel for the petitioners has referred to the statement made in paragraph no.8 of the bail application, which reads as follows:-

“8. That there is no any injury and section 324, 379 and 354 of the I.P.C. have been added ornamental to make case non-bailable.”

Having regard to the aforesaid stand, this Court would direct the petitioners. above named. to surrender within a period of four weeks from today and the court below, on perusal of the Case Diary, would find that there is no injury report to substantiate the allegation of the informant of assault either on her person or on her husband, all the petitioners namely :- (1) Rajo Mahton @ Raju Mahton, (2) Kamal Kishore Mahton, (3) Radhe Krishna Mahton, (4) Bijay Mahton, (5) Bijli Mahton, (6) Principal Mahton and (7) Luro Mahton shall 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, Begusarai in connection with Bakhari P.S. Case No. 155 of 2015, 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 is however made clear that in the event it is found that there is injury report in the case diary supporting the allegation of assault, the petitioners shall be taken into custody whereafter they will be entitled for filing petition for regular bail which of-course shall be decided on its own merit without being prejudiced by any thing said in this order.

(Mihir Kumar Jha, J)

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