

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40080 of 2016

Arising Out of PS.Case No. -71 Year- 2016 Thana -SIMRI District- BUXAR

1. Raju Tiwari Son of Ashok Tiwari
2. Bablu Tiwari Son of Ashok Tiwari
3. Ashok Tiwari Son of Late Kedar Tiwari
4. Munna Tiwari Son of Ashok Tiwari
5. Sunil Tiwari Son of Late Jaggi Tiwari
6. Vijay Tiwari Son of Late Badri Tiwari All are resident of village - Asha Pandri, Police Station Simri, District Buxar

.... .. Petitioner/s

Versus

1. The State of Bihar

.... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vipin Kumar Singh, Advocate
For the Opposite Party/s : Mr. Ram Bachan Singh, A.P.P.

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 17-09-2016 Heard learned counsel for the petitioners and the learned A.P.P. for the State.

Petitioners apprehend their arrest in connection with Simri P.S.Case No. 71 of 2016 registered for offences punishable under Sections 147, 148, 149, 341, 323, 324, 325, 307, 379 and 504 of the Indian Penal Code.

The prosecution case on the basis of fardbeyan of one Ajit Kumar Tiwari given in emergency ward of Sadar Hospital, Buxar is that on 28.05.2016, when the informant was going to attend natural call and reached near the door of Ashok Kumar



Tiwari, at that time Vijay Tiwari, Sunil Tiwari, Munna Tiwari, Bablu Tiwari, Raju Tiwari and Ashok Tiwari armed with Garasa, Tangi, lathi and pistol surrounded the informant and started abusing and assaulting him with an intention to commit murder. When the informant raised alarm, Ashish Tiwari, Umashanker Tiwari and Anil Tiwari reached to rescue the informant, accused persons also assaulted them with Garasa, Axe, lathi and Paina upon which Ashish Tiwari sustained injury on left hand finger. In the meantime co-villager rushed at the place of occurrence then accused Munna Tiwari opened fire with pistol and escaped. It is further alleged that accused persons snatched Rs. 17,500/- from the pocket of Anil Tiwari and the cause of occurrence is land dispute.

It has been submitted by the learned counsel for the petitioners that they are innocent and have been falsely implicated due to land dispute. It is further submitted that for the same occurrence, the petitioners have also lodged F.I.R. bearing Simri P.S.Case No. 70 of 2016 on the same day prior to the lodging of the present F.I.R. and there was free fight between them for which both sides received injury and injury on the informant has been found to be simple in nature, as is evident from annexure-3 of this application. Learned counsel for the petitioners submit that

Section 307 of the I.P.C. is not applicable and that the petitioners have no criminal history, as is evident from para-3 of this application.

However, learned A.P.P. for the State submits that the petitioner along with other co-accused assaulted the informants' side, hence, opposes the prayer for bail.

Since, there is case and counter case and the matter relates to land dispute and the petitioners have no criminal antecedents, as is evident from para-3 of this application, let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of eight weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand only) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in connection with Simri P.S. Case No. 71 of 2016, subject to the conditions as laid down under Section 438 (2) of the Cr. P.C.

(Nilu Agrawal, J)

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