

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45697 of 2015

Arising Out of PS.Case No. -54 Year- 2014 Thana -PAHARPUR District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Bindhyachal Mahto @ Bindhyachal Prasad
 2. Pati Ram Mahto both sons of Shri Amar Mahto
 3. Babu Lal Mahto S/o Bircha Mahto

All of resident of village Balua Briti Tola, P.S. Paharpur, District - East
Champaran

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar

For the Opposite Party/s : Mr. Ram Bachan Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

04/ 25-01-2017

Heard learned counsels for the petitioners

and the State.

The petitioners have renewed their prayer
for anticipatory bail in a case registered for the offences
punishable under Sections 341, 148, 149, 302, 324 and 307/34 of
the Indian Penal Code.

Earlier the anticipatory bail application of
the petitioners was disposed of vide order dated 13.07.2015



passed in Cr. Misc. No. 23789 of 2015 since the anticipatory bail application of the petitioners was rejected by learned Additional Sessions Judge-IX, East Champaran, Motihari since none appeared on behalf of the petitioners. Hence, this Court gave liberty to the petitioners to move before the learned Sessions Judge afresh, hence, the present application.

The prosecution case is that the informant's family were erecting hutment on 08.04.2014 on their land and around 2.00 P.M. eight accused persons variously armed including the petitioners came and abused the father of the informant and others and asked them not to construct the hutment. The father of the informant replied that he is erecting the hut on his own land and thereafter on the order of co-accused Mani Prasad, who caught hold the father of the informant, co-accused Binod Prasad assaulted with Farsa on the head of the father of the informant causing injury on the left eye, thereafter petitioner no. 1, Bindhyachal Mahto, resorted to fire thrice in the air and Upendra Mahto and Amar Mahto assaulted with stone to the father of the informant. In the meantime, the informant's mother, Kailasho Devi, nephew, Suraj Mahto, elder brother, Balram Mahto and his wife came to rescue the father of the informant, all the accused persons assaulted them also with lathi



and danda when the villagers came they escaped from the scene. The father of the informant was taken to Primary Health Centre, Paharpur and from there to Sadar Hospital, Motihari where he died during treatment.

It is submitted by learned counsel for the petitioners that the petitioners are the agnates of the informant and in the background of land dispute the accusation has been levelled. There is no specific accusation against the petitioners of making assault to the victim i.e. father of the informant. There is a counter version of the occurrence leading to registration of Paharpur P.S. Case No. 57 of 2014 with accusation under Sections 341, 323, 324, 325, 307, 147, 148, 149, 427 and 438 of the Indian Penal Code. Statement has been made in paragraph 3 of the petition that petitioner no. 1 is accused in five other cases, petitioner no. 2 is accused in two other cases. Now supplementary affidavit has been filed that petitioner no. 1 is accused in (i) Paharpur P.S. Case No. 123 of 1995 registered under Sections 323, 324, 379 of the IPC (ii) Paharpur P.S. Case No. 11 of 1996 registered under Sections 147, 148, 307, 504 of the IPC (iii) Paharpur P.S. Case No. 12 of 1996 registered under Sections 25(1)B, 26 of the Arms and 323, 325 of the IPC but now he has been acquitted in all the three abovementioned cases. At



present, he is accused in Paharpur P.S. Case No. 162 of 2011, registered under Sections 323, 341, 447, 504 of the IPC and Paharpur P.S. Case No. 221 of 2011 registered under Sections 323, 324 of the IPC in which he is on bail whereas petitioner no. 2 is accused in (i) Paharpur P.S. Case No. 162 of 2011 registered under Sections 323, 341, 447, 504 of the IPC and Paharpur P.S. Case No. 221 of 2011 registered under Sections 323, 324 of the IPC and in both the cases he is on jail whereas due to inadvertence in paragraph 3 of the petitioner with regard to petitioner no. 3 it has been stated that he is accused in Paharpur P.S. Case No. 221 of 2011 but actually he is not accused in the said case as he has fair antecedent.

Considering the fact that the accusation of assault is not specific against the petitioners, the accusation has been levelled in the background of property dispute and there is a counter version of the occurrence, let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran, Motihari in connection with



Paharpur P.S. Case No. 54 of 2014, subject to the conditions as
laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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