

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19705 of 2018

Arising Out of PS. Case No.-360 Year-2017 Thana- BATHNAHA District- Sitamarhi

1. Rashid Khan, S/o- Late Bilat Khan,
2. Rajab Khan, S/o- Rashid Khan,
3. Md. Chand Khan @ Chand Khan, S/o- Rashid Khan,
4. Kadir Khan, S/o- Rashid Khan,
5. Galhi Khan @ Gani Khan, S/o- Rashid Khan,
6. Babar Khan, S/o- Rashid Khan, All are R/o-Village- Kamaldah,
P.S.- Bathnaha, District- Sitamarhi.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Uday Kumar

For the Opposite Party/s : Mr. Sri Bhanu Pratap Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-04-2018

Heard learned counsels for the petitioners and State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 324, 379, 307, 504 and 506/34 of the IPC.

The prosecution case, as per the fardbeyan of Abdul Kayum, recorded on 02.12.2017, by Sub-Inspector of Police, Bathnaha Police Station, is to the effect that the informant along with his brother were travelling on motorcycle and as soon as they reached at the house of co-villager Rashid Khan, he ordered the informant to stop the motorcycle in protest of getting a case lodged against him, thereafter Rashid Khan and his sons armed with sword, knife and lathi, surrounded the informant and his nephew, whereupon petitioner no.3, Md.



Chand Khan assaulted with sword on the head of the informant and when the informant's nephew, Md. Aslam came to rescue him, then petitioner no.2, Rajab Khan inflicted injury with knife on his head. Petitioner no.4, took out Rs. 45,000/- and gold chain from the informant.

It is submitted by learned counsel for the petitioners that the final opinion with regard to injury of the informant and his nephew has not been brought on record. There is no accusation of repetition of blow. The petitioners' side lodged Bathnaha P.S. Case No. 358 of 2017, on 30.11.2017 at 9 AM with accusation under Sections 147, 148, 323, 324, 307, 379, 407, 436, 504 and 506 of the IPC, whereas the present case was registered on 02.12.2017 at 9 AM for the occurrence of 28.11.2017, however, fardbeyan was recorded on 28.11.2017 itself. Petitioners' side also received injuries. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that there is specific accusation of assault against the petitioners.

Considering the fact there is specific accusation of assault against petitioner nos. 2 and 3, let above named petitioner nos. 2 and 3 be released on provisional anticipatory



bail for four weeks and considering the fact that there is no specific accusation against petitioner nos. 1 and 4 to 6, let them be released on anticipatory bail in the event of arrest/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 like amount each to the satisfaction of learned CJM, Sitamarhi in connection with Bathnaha P.S. Case no. 360 of 2017, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

Let the learned Court below call for the final medical opinion with regard to injuries of the informant and his nephew, whereupon if it is found that no grievous injury has been caused to the informant and his nephew, then the provisional bail granted to petitioner nos. 2 and 3 will be confirmed by the learned Court below, but if it is found that the informant has received grievous injury then petitioner no.3 will surrender and pray for regular bail and if it is found that nephew of the informant, namely, Md. Aslam has received grievous injury then petitioner no.2 will also surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

Amrendra/-

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