

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7303 of 2018

Arising Out of PS. Case No.-68 Year-2017 Thana- NAUTAN District- West Champaran

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1. Manoj Tiwari, son of Late Desh Bandhu Tiwari
 2. Om Prakash Tiwari, son of Late Desh Bandhu Tiwari.
 3. Jhun Jhun tiwari, son of Om Prakash Tiwari
 4. Nirmala Devi, wife of Om Prakash Tiwari.

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Sanjay Kumar No.-7, Advocate
For the Opposite Party : Mr. Mritunjay Kumar Nirala (APP)

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

2 07-02-2018 Heard learned counsel for the petitioners and the learned counsel representing the State.

The petitioners want to renew their prayer of pre-arrest bail which was earlier disposed of vide order dated 19.09.2017 passed in Cr. Misc. No. 43959 of 2017, on the ground that the petitioners were not on Police bail rather they have been given benefit under Section 41(1) Cr.P.C. during investigation and, as such, the decision of "*Mahendra Prasad Singh Vs. The State of Bihar*" reported in 2004 (3) PLJR, Page-491 is not applicable in the case of the petitioners and the petitioners after surrender cannot be given such privilege and their pre-arrest bail be disposed of on merit. It is submitted that



in the first information report there is allegation against Om Prakash Tiwari to have assaulted with *farsa* on the head of the informant and Jhun Jhun Tiwari has assaulted with *Garasi* and caused cut injury below right knee and then all assaulted him and Om Prakash Tiwari took out Rs. 20,000/- from his pocket and when Ramawati Devi came for rescue she was also assaulted by Sanju Devi by bamboo and Nirmala Devi assaulted with *Garasi* on her left leg and further snatched *tops* and *Mangalsutra*, but during investigation the allegation under Section 379 I.P.C. has not been found true and further charge sheet has not been submitted under Section 379 and 307 I.P.C. rather charge sheet has been submitted under Section 308 I.P.C. From injury report of the informant it reveals that on the head lacerated wound was found caused by hard and blunt substance and no *farsa* injury has been found and further that injury has been found simple and two grievous injuries are on right hand and right forearm which are not the vital part of the body. The wife of the informant has received simple injuries and, as such, the petitioners deserve sympathetic consideration.

The learned A.P.P. fairly submits that during investigation the petitioners were given benefit under Section 41(1) Cr.P.C.



In the facts and circumstances stated above, let the petitioners above named, in the event of their arrest or surrender before the Court below within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail 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, Bettiah, West Champaran, in connection with Nautan P.S. Case No. 68 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Jitendra Mohan Sharma, J.)

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