

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.38238 of 2017**

Arising Out of PS.Case No. -246 Year- 2017 Thana -BASANTPUR District- SIWAN

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Jay Prakash Upadhyay

.... .... Petitioner/s

Versus

The State of Bihar & Ors

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Vijay Kumar Mishra

For the Opposite Party nos. 2 to 5 : Mr. Ajay Kumar Pandey,  
Mr. Sandeep Kumar

For the State : Mr. Sri Shyam Kumar Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

4      24-01-2018

This is an application seeking cancellation of bail of opposite party nos. 2 to 5, which was granted by order dated 21.07.2017 passed by the learned Chief Judicial Magistrate, Siwan in connection with Basantpur P.S. Case No. 246/2017 instituted for offences under Sections 147, 148, 149, 341, 323, 325 and 307 of the Indian Penal Code.

The opposite party nos. 2 to 5 are alleged to have assaulted the informant and his father by means of an iron rod. So far as the allegation of assault is concerned, that has been attributed to Pankaj Upadhyay, who is said to have assaulted the father of the informant by means of *Farsa* and thereafter by an iron rod.

Learned counsel for the petitioner has submitted that the opposite party nos. 2 to 5 had made a wrong statement before



the learned Chief Judicial Magistrate that none of the injuries suffered by the victim were of any serious nature, whereas the fact is that one of the injuries on the father of the informant has been opined to be grievous.

From the perusal of the order impugned, it appears that bail was granted to the opposite party nos. 2 to 5 on the ground of old land dispute between the parties and the possibility of false implication because of village politics. All the opposite parties herein are members of the same family and as against them, there is a general allegation of assaulting the father of the informant. The informant has not received any injury, whereas his father Kamaldeo Upadhyay has suffered injuries in the nature of contusion, swelling and deformity etc. on both the forearms. Because of the fracture, the injury has been reported to be grievous. The major part of the assault as observed earlier, is alleged against Pankaj Upadhyay.

In that view of the matter, it does not appear that because of the wrong statement by the opposite parties, bail was granted to them.

Considering the aforesaid aspects, this Court finds no merit in the present application seeking cancellation of bail of opposite party nos. 2 to 5.



The application is accordingly, dismissed.

**(Ashutosh Kumar, J.)**

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