

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39845 of 2018

Arising Out of PS. Case No.-441 Year-2017 Thana- BANKA District- Banka

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1. Mantu Barbayak, S/o Late Mishar Barbayak,
2. Pairiya Devi, W/o Shyam Sundar Barbayak, Both resident of
Village- Ratodhiya, Police Station- Banka, District- Banka.
... .. Petitioner/s

Versus

The State of Bihar. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Mukherjee
For the Opposite Party/s : Mr. Gauri Shankar Gupta

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 11-07-2018 Heard learned counsels for the parties.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 147,341,148,149,323,324,325 and 307 of the IPC.

The prosecution case as per the written report of Balram Patraj, dated 27.7.2017, submitted to the SHO, Banka Police Station is to the effect that on 26.7.2017 at 10.00 A.M., all the accused persons drained the water from the channel of the informant. When the informant made protest, he was accosted and he ran to his house. On 27.7.2017, when the informant was going to ease out, the accused persons surrounded and abused him. It is alleged that co-accused Rajesh Barbayak assaulted with axe on the head of the informant while co-accused Rakesh Barbayak assaulted with iron rod on the hand of the informant causing fracture of his hand. When Hareram Patraj came to



rescue him, then co-accused Tej Narayan Barbayak assaulted him with sword causing a cut injury to Hareram Patraj. It is further alleged that petitioner no. 1 assaulted with iron rod on the head of Hareram Patraj which caused injury on the shoulder of Hareram Patraj, as a result, he sustained fracture of collar bone. Dhananjay Patraj was assaulted by co-accused Gita Devi with axe causing bleeding injury and co-accused Shyam Sundar Barbayak assaulted Sanjay Patraj with iron rod, as a result, he received fracture injury of finger.

It is submitted by learned counsel for the petitioners that in the background of land dispute, the accusation has been levelled. It is further submitted that there is a counter version of the occurrence being Banka P.S. Case No. 440 of 2017 filed with accusation under Sections 147,149,341,323,324,325 and 307 of the IPC. There are five persons who received injury from the petitioners' side. Though the informant received fracture injury on right ulna but as per the FIR, the said injury has been caused by co-accused Rakesh Barbayak. Petitioner no. 1 is alleged to have caused fracture of collar bone of Hareram Patraj but the medical opinion does not suggest as such. Other injuries of Hareram Patraj have been found to be simple in nature.



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

Considering the fact that the accusation is not being corroborated by the medical opinion so far as petitioner no. 1 is concerned and there is counter version of the occurrence and petitioners' side have also received injury, let the petitioners above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned CJM, Banka in connection with Banka P.S. Case No.441 of 2017 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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