

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2240 of 2018

Arising Out of PS. Case No.-88 Year-2017 Thana- PATEPUR District- Vaishali

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1. Amarjeet Rai, Son of Ashok Rai
 2. Ajay Rai, Son of Ashok Rai
 3. Gautam Rai, Son of Raj Kumar Rai
 4. Ashok Rai, Son of Sheetal Rai
 5. Prince Rai, Son of Deo Kumar Rai All Residents of Village Maheya Malpur, P.S.- Patepur, District - Vaishali.
 6. Nandu Rai, Son of Late Laxmi Rai resident of village Pusha, P.S.- Pusha, District Samastipur.

... .. Petitioners

Versus

The State of Bihar.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Navesh Nandan
For the Opposite Party/s : Mrs. SUMAN KUMARI SINGH

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-01-2018 Heard learned counsels for the petitioners and State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 147, 148, 149, 342, 323, 324, 326, 307, 379 and 506 of the IPC.

The prosecution case, as per the fardbeyan of Prahlad Rai recorded at PMCH by Deepak Kumar, S.I., Patepur Police Station is to the effect that on 02.09.2017, the informant along with his son Ramratan Rai was returning after selling the buffalo having Rs. 65,000/- in a bag. On the way, the informant's son went to his in-laws house and the informant was coming alone and at 7.30 PM when the informant reached near



the house of Kapal Rai, a co-villager, then 10 accused persons including the petitioners surrounded the informant and on the order of petitioner no.4, Ashok Rai, all the accused persons assaulted the informant with lathi, danda, bricks and hammer, thereafter, they dragged the informant in the house of petitioner no.1, Amarjeet Rai where Amarjeet Rai assaulted the informant with farsa causing cut injury on his left leg, when co-accused Dev Kumar Rai, assaulted with knife causing injury on the cheek of the informant and thereafter all the accused persons assaulted with lathi, danda, bricks and hammer. The accused persons also snatched Rs. 65,000/- from the informant and when they realized that the informant is dead, they escaped from the scene.

It is submitted by learned counsel for the petitioners that the specific accusation of assault with farsa and knife is against petitioner no.1, Amarjeet Rai and co-accused Dev Kumar Rai. Though, inside injuries have been caused on the lower part of the left leg of the informant, but the same has been found to be simple in nature. The informant has received almost ten injuries, out of which, seven injuries have been caused by sharp cutting weapon when assault by sharp cutting weapon is allegedly only caused by petitioner no.1, Amarjeet Rai and co-accused Dev



Kumar Rai. There is no accusation of repeating blow by petitioner no.1, Amarjeet Rai, hence the case does not come within the purview of Section 307 of the IPC. The accusation against petitioner nos. 2 to 6 is omnibus and general. There is counter version of the occurrence also being Patepur P.S. Case No. 89 of 2017, registered under Sections 341, 323, 324, 326, 307, 354(B), 379 and 506/34 of the IPC. The accusation under Section 379 IPC is cosmetic in nature. 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 accusation of assault has been levelled against all the accused persons.

Considering the fact that the injury caused by petitioner no.1, Amarjeet Rai has been found to be simple in nature whereas accusation against petitioner nos. 2 to 6 is omnibus and general and the petitioners having no criminal antecedent, let the above named petitioners 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 Sub-Judge-XI cum ACJM, Vaishali at Hajipur in connection with Patepur P.S. Case



No. 88 of 2017, subject to the condition as laid down under
Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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