

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.39331 of 2019

Arising Out of PS. Case No.-35 Year-2019 Thana- TERHAGACHH District- Kishanganj

1. Bijay Mahto, aged about 35 years, (Male).
2. Prithwi Lal Mahto, aged 46 years (Male) Both sons of Late Doman Mahto
3. Shyamwati Devi aged about 30 years (Female) Wife of Bijay Mahto
4. Manoj Mahto, aged about 19 years (Male) Son of Prithwi Lal Mahto
5. Sita Devi aged about 40 years (Female) Wife of Prithwi Lal Mahto
All resident of Village- Fulwariya, P.S.- Tedhagachh, District- Kishanganj.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Amal Kumar Sinha, Advocate
For the State	:	APP
For the Informant	:	Mr. Sunil Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 20-08-2019 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 302/34 of the Indian Penal Code registered in connection with Tedhagachh P.S. Case No. 35 of 2019.

3. It is submitted that the petitioners have been falsely implicated in the backdrop of petty dispute and there is case and counter case between the parties. The FIR is against as many as 18 named accused persons including the ladies and 10-15 unknown persons. The accusation of assault is general and omnibus in nature and no specific overt act has been alleged against the petitioners. The post mortem report (Annexure-3) does not support the accusation of assault by as many as 18 named accused persons and 10-15 unknown persons and the main injury is on the back of neck and swelling of



occipital region of scalp apart from bruise over right neck. The petitioners claim clean antecedents.

4. Learned APP assisted by learned counsel for the informant opposes the petition and has been heard. Learned APP on the basis of the case diary submits that there is material to indicate that all the accused persons had assaulted the deceased. The specific accusation of assault by throwing the rod of weight machine on the neck of the deceased is upon co-accused Kapil Mahto.

5. Learned counsel for the informant submits that the thrust of accusation of assault on the deceased is against all the accused persons and some of them have been granted anticipatory bail.

6. Be that as it may, in the event of petitioners' arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioners be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Kishanganj in connection with Tedhagachh P.S. Case No. 35 of 2019, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. and with further conditions --

(i) That one of the bailors of each of the petitioners shall be their close relatives.

(ii) That the petitioners shall not indulge in any similar offence till conclusion of the trial.

(iii) That petitioner nos. 1, 2 and 4 shall remain physically present in court on each and every date during trial and petitioner nos. 3 and 5 shall be well represented in court on each and every date during trial except as and when directed by the learned Court below to be physically present, and in the event of failure on two consecutive dates without sufficient reason, their bail bonds shall be liable to be cancelled by the learned Court concerned.

(iv) That the petitioners shall cooperate with the



investigation, if not already concluded, and make themselves available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Vikash Jain, J)

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