

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51268 of 2019

Arising Out of PS. Case No.-1026 Year-2018 Thana- MOTIPUR District- Muzaffarpur

1. SHANKAR BHAGAT Son of Late Shree Bhagat
2. Mewalal Bhagat @ Nawal Prasad Son of Shankar Bhagat
Both Resident of Village - Mathiya Morsandi, P.S.- Motipur, Distt -
Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Ranjan

For the Opposite Party/s : Mr.Sanjay Kumar Sharma

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

3 16-11-2019 At the outset, learned counsel for the petitioner submits that during the pendency of this application, petitioner no. 1 has been arrested.

Accordingly, this application against petitioner no. 1 is dismissed as become infructuous.

So far as petitioner no. 2 is concerned, he apprehends his arrest in connection with Motipur P. S. Case No. 1026 of 2018 registered under Sections 307,323,341,379, 447 and 504/34 of the Indian Penal Code and Section 302 of Indian Penal Code has been added later on.

The prosecution story, as per FIR, is that parties are co-sharers and there was a dispute between them relating to a piece of land which was allegedly being used by the side of the



petitioners and due to which a scuffle between the parties took place and on the order of petitioner no. 1, Anand Kumar, son of petitioner no. 1, assaulted the wife of the informant by means of Khanti.

Learned counsel appearing on behalf of the petitioner no. 2 submits that he has not committed any offence in the manner alleged and no overt act has been alleged against petitioner no. 2. He further submits that both parties are agnate and co-sharer and admittedly due to land dispute scuffle took place between them and having been enraged, assault was made by another co-accused Anand Kumar upon the wife of the informant and there is no specific allegation of assault upon the petitioner no. 2 and at best he can be said to be a member of unlawful assembly.

On the other hand, learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submits that all accused persons with their common intention assaulted the wife of the informant causing her death.

Having regard to the submissions made by the parties and taking into consideration the fact that both parties are co-sharer and scuffle took place between them due to a piece of land and no specific overt act has been alleged against the petitioner no. 2, as such I am inclined to grant anticipatory bail to the



petitioner.

Let the petitioner no. 2, above-named, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned SDJM, (West) Muzaffarpur in connection with Motipur P.S.Case No. 1026 of 2018; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

sujit/-

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