

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 59641 of 2019

Arising Out of PS Case No.-36 Year-2019 Thana- BUDHU CHAK District- Bhagalpur

1. Md. Ekbal @ Shaikh Ekbal, aged about 55 years, Male Son of Late Badar. Resident of Village- Kishan Daspur, P.S.- Budhu Chak, District- Bhagalpur.
2. Shaikh Rijwan, aged about 35 years, Male Son of Md. Ekbal @ Shaikh Ekbal Resident of Village- Kishan Daspur, P.S.- Budhu Chak, District- Bhagalpur.
3. Md. Iteshar Alam @ Md. Inteshara @ Md. Intsar, aged about 32 years, Son of Md. Ekbal @ Shaikh Ekbal Resident of Village- Kishan Daspur, P.S.- Budhu Chak, District- Bhagalpur.
4. Bibi Sahara, aged about 42 years, Female Wife of Md. Miraj Resident of Village- Kishan Daspur, P.S.- Budhu Chak, District- Bhagalpur.
5. Md. Rashid @ Jhupari @ Jhuba, aged about 30 years, Male Son of Md. Ekbal @ Shaikh Ekbal Resident of Village- Kishan Daspur, P.S.- Budhu Chak, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar Pandey, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 27-11-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners have moved the Court seeking pre-arrest bail in connection with Budhu Chak PS Case No. 36 of 2019 dated 06.06.2019 instituted under Sections 341, 323, 307, 384 and 504/34 of the Indian Penal Code.



3. The allegation against the petitioners and five others is of assault on the informant and his family members. The reason given is that the accused were demanding Rs. 1,50,000/- from him, which on refusal resulted in the incident.

4. Learned counsel for the petitioners submitted that the parties are related to each other and next door neighbours. It was further submitted that there is also a counter case for the same incident. Learned counsel submitted that the allegation itself is general and omnibus and even the injury report indicates that the injuries were simple in nature except for one injury, which is said to be grave. Learned counsel submitted that the petitioner no. 4 is a lady, aged about 42 years, and it cannot be expected that she would also participate in the alleged occurrence of assaulting anybody when already the male members are alleged to be indulging in such act. Learned counsel submitted that this clearly shows the *mala fide* behind lodging of the FIR where even womenfolk have been implicated.

5. Learned APP, from the case diary, submitted that injuries have been found on five persons on the prosecution side and on one, grievous injury has also been recorded. However, on the question of petitioner no. 4, it was submitted that she being a lady, the Court may consider giving indulgence to her. It was



submitted that thus because the parties may be relatives and there may be counter case would not give the petitioners a right to indulge in such assault, which law prohibits.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to allow the prayer for pre-arrest bail to petitioners no. 1, 2, 3 and 5. Accordingly their prayer is rejected.

7. However, with regard to petitioner no. 4 namely, Bibi Sahara, in the event of arrest or surrender before the Court below within four weeks from today, she be released on bail upon furnishing bail bonds of Rs. 25,000/- (Twenty Five thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM, XIII, Bhagalpur in Budhu Chak P.S. Case No. 36 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

8. The application stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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