

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75360 of 2019

Arising Out of PS. Case No.-4 Year-2018 Thana- GHORASAHAN District- East Champaran

1. Dhruv Yadav @ Dhruv Rai Son of Jaylal Rai @ Jayeelal Rai
2. Shivmangal Yadav @ Shiv Mangal Rai Son of Dharikshan Rai
Both residents of Village – Gurmiya (Khash Tola), Police Station -
Ghorasahan, District - East Champaran at Motihari.
3. Umesh Yadav @ Umesh Rai Son of Biltu Rai, resident of Village - Mahuani-
Murshidabad, Police Station - Ghorasahan, District - East Champaran at
Motihari.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sanjana

For the Opposite Party/s : Mr.Mithlesh Kumar Khare

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 26-11-2019 Heard both sides.

The petitioners seek bail in Ghorasahan P.S. Case No.04 of 2018 registered for the offence under Sections 147, 148, 149, 341, 323, 324, 325, 307, 379, 504 and 506 of the Indian Penal Code.

The informant named the petitioners along with other accused persons and alleged that the petitioners and other accused persons along with 15-20 unknown accused persons, armed with different weapons, came and assaulted the informant indiscriminately with lathi and danda, due to which the informant received injuries on different part of his body. The



petitioner Dhruv Yadav is said to have assaulted the informant with iron rod. The petitioner assaulted the informant with iron rod, which hit on the right hand causing fracture injury on his right hand. Thereafter, the petitioner is said to have again assaulted the informant on his left hand, causing fracture injury on his left hand.

Learned counsel for the petitioners submits that after through investigation, the Investigating Officer submitted chargesheet finding the case true under Section 341, 323, 325, 504, 506/34 of the Indian Penal Code, but the learned Judicial Magistrate took cognizance under Section 307 and other allied Sections of the Indian Penal Code. It is further submitted that during course of investigation, the petitioners were granted bail by the police. Learned counsel for the petitioners submits that there is counter version of Gorasahan P.S. Case No.05 of 2018. It is submitted that the learned Judicial Magistrate after taking cognizance in the month of January,2019 cancelled the bail bond of the petitioners without issuing any notice or summoning the petitioners. Learned counsel for the petitioners further submits that even after cognizance under Section 307 and other allied Sections of the Indian Penal Code, the bail of the petitioners may not be cancelled without issuing any notice to



the petitioners and without hearing them. The petitioners are in jail since 03.10.2019. It is submitted that no other injuries found on the person of the informant are opined to be grievous in nature on account of fracture injury.

On the other hand, learned Addl. Public Prosecutor and learned counsel for the informant have opposed the prayer for bail and submitted that there is specific allegation against the petitioners, who assaulted the informant indiscriminately with iron rod on his head and there are two grievous injuries found on the person of the informant. It is submitted that petitioner nos.1 and 2 are also accused in several criminal cases and even while the petitioners were on bail, they assaulted the informant, for which Ghorasahan P.S. Case No.351 of 2019 was registered 325 and 379 and other Sections of the Indian Penal Code.

From perusal of the record, it appears that the informant named the petitioners along with others and alleged that petitioners assaulted the informant with iron rod, due to which the informant received fracture injuries on his hands. No other injuries are opined to be grievous in nature. There is counter version. The petitioners were granted bail by the police, but cognizance was taken against the petitioners under Section 307 and other Sections of the Indian Penal Code. Although



police submitted chargesheet under Sections 341, 323, 325, 504, 506/34 of the Indian Penal Code but without issuing notice and hearing the petitioners, petitioners bail bond were cancelled by the learned Judicial Magistrate. In fact, the learned Judicial Magistrate should have heard the petitioners before cancelling their bail bond. Petitioners are in jail since 03.10.2019

Considering the facts aforesaid the petitioners, above named, are directed to be enlarged on bail on their furnishing bail bond of Rs.10,000/-(ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Sikrahana at Dhaka, District-East Champaran at Motihari in connection with Ghorasahan P.S. Case No.04 of 2018.

(Prabhat Kumar Jha, J.)

nawalkrs/-

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