

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.74275 of 2018

Arising Out of PS. Case No.-110 Year-2018 Thana- PARIHAR District- Sitamarhi

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1. Upendra Rai, Son of late Jugati Rai.
 2. Arbind Rai @ Arbind Kumar, Son of Upendra Rai
 3. Manish Kumar, Son of Upendra Rai
- All are Resident of Village- Andauli, P.S.-Parihar, District-Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hans Lal Kumar, Adv.
For the Opposite Party/s : Mr. Rajendra Singh Shastriji, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-01-2019 Heard learned Counsel for the petitioners and learned APP
for the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 147,149,341,323,324,307,379,354,504 and 506 of the Indian Penal Code.

The prosecution case got initiated on the Fardbeyan of Hari Shankar Ray, recorded by S.I. Bigau Rai Sitamarhi Police Station on 16.08.2018 at 11.01 A.M at Sadar Hospital, Sitamarhi to the effect that that since the accused persons were cutting the soil from the road and putting the same in their agricultural field, it was protested by the informant's side, upon which, 12 accused persons, including the petitioners, came and



abused the informant. It is further alleged that petitioner no.2, Arbind Rai assaulted with 'farsa' on the head of the informant causing cut injury, whereas petitioner no.1 Upendra Rai assaulted with an iron rod on the right hand of the informant causing fracture injury when friend of the informant came to rescue the informant, he was also assaulted by co-accused Dinesh Rai with a 'dabiya' causing injury on the right elbow. It is further alleged when son of the informant Mahadev Rai came to rescue he was assaulted by co-accused Ram Pravesh Rai with a 'tengari'. It is also alleged that petitioner no.1, Upendra Rai snatched a gold chain from the wife of the informant.

It is submitted by learned counsel for the petitioners that in the background of a dispute with regard to a road, the accusation has been levelled. Though there is accusation against the petitioner no.1 causing grievous injury on the right hand of the informant, but there is no accusation of repeating the blow, hence, the case does not come within the purview of Section 307 of the I.P.C. There is a counter version of the occurrence being Parihar P.S. Case No.114/2018 with accusation under Sections 147, 149, 323, 325, 324, 504/506 lodged by the petitioners' side against the informant side. A statement has been made in paragraph no.3 of the petition that the petitioners are



not having any criminal antecedent.

It is submitted by learned APP for the State there is specific accusation of assault in the FIR against petitioner nos. 1 and 2. Though accusation is not specific against petitioner no.3.

Considering the genesis of the occurrence and in view the fact that though petitioner no.2 is alleged to have caused grievous injury on the right hand of the informant, but there is no accusation of repeating the blow, coupled with statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned CJM, Sitamarhi in connection with Parihar P.S. Case No.110/2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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