

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79718 of 2019

Arising Out of PS. Case No.-142 Year-2019 Thana- LADANIA District- Madhubani

1. GAUTAM KUMAR SAH @ GAUTAM SAH, aged about 19 years (M),
Son of Gopal Sah
2. Gopal Sah, aged about 45 years (M), Son of Ram Saroop Sah
Both Resident of Village-Pathrahi, P.S.-Ladaniya, District-Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Opposite Party/s : Ms. Rina Sinha

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 05-12-2019 Heard learned counsel for the petitioners as well as
learned A.P.P.

Apprehending their arrest in connection with
Ladaniya P.S.Case No. 142/2019 registered under sections 341,
323, 307, 448, 379, 504, 506/34 of the Indian Penal Code, the
petitioners, Gautam Kumar Sah @ Gautam Sah and Gopal Sah
have filed the instant petition for anticipatory bail.

It has been submitted at the end of the petitioners that
so far petitioner Gautam Kumar Sah is concerned, he happens to
be a student. The dispute happens to be in between his father
and the informant over the tenancy and in the aforesaid
background, the informant coerced his father to vacate the



house, whereupon his father, petitioner no.2, had insisted upon to return back advance money having taken by the informant and in the aforesaid background, the prosecution party brutally assaulted and for that on the Fard Beyan of petitioner no.2 Gopal Sah, Ladaniya P.S. Case No. 140/2019 has been registered. After coming to know about the same, this false case has been registered taking the local police at his instance showing the date of occurrence as 13.8.2019, that means to say, for the same occurrence case and counter case has been drawn up.

Further more, it has also been submitted that there happens to be omnibus allegation so far these petitioners are concerned. The injury report also did not justify allegation whatsoever been at the end of the informant. So, in sum and substance, it has been submitted at the end of the petitioners that being dispute over vacating of the house and for that the petitioners have insisted upon to return back the advance which the informant has taken, this false case has been instituted in order to counter meet the allegation having at the end of petitioner no.2.

Learned A.P.P. opposed the same and submitted that purpose of anticipatory bail is to be exercised in exceptional



circumstance. Presence of the case and the counter case is also indicative of the fact that an occurrence has taken place and for that, version and counter version which could not be properly appreciated while entertaining a prayer under section 438 Cr.P.C.

The informant Manish Kumar gave his Fard Beyan on 13.8.2019 while he was admitted at PHCKhutouna disclosing therein that for the last two years he was insisting upon to vacate the house which Gopal Sah has taken on rent but he did not pay heed to it. Today, when he insisted then Gopal Sah and his sons Govind Sah, Kanhaiya Sah and Gautam Sah armed with lathi and danda abused and then they assaulted. Thereafter, Govind Sah put a towel around his neck and in order to kill him compressed the same. Kanhaiya Sah snatched away Rs.1500/-. His elder brother Mukesh Sah came in rescue who was also assaulted. They have ransacked his house. On hue and cry the villagers came, whereupon they ran from there.

Annexure 2 is the injury report of Mukesh Kumar as well as Manish Kumar. So far Manish Kumar is concerned, injury no.(1) the doctor has found complain of pain and tender over both side of the neck. Multiple scratches and abrasion over both side of neck. Patient in agony and anxiety. Patient is



endanger of life. Colour of scratches and abrasion are red. (2) A tender and swelling over left wrist joint. (3) Complain of bodyache and tender over the chest. In the opinion of the doctor, injury no.1 is grievous in nature due to endanger of life while injury no.2 and 3 are simple in nature.

Over the person of Mukesh Kumar the doctor has found complain of pain over the left side of the neck, complain of pain over the left of the cheek, complain of bodyache.

From perusal of the counter case (Annexure 3), it is evident that inter se relationship as landlord and tenant is admitted one. It is also evident that genesis of dispute is also admitted one having on account of altercation in between over vacating the house. There happens to be allegation/ counter allegation relating to assault and in the aforesaid background, it is a fit case where the petitioners should appear before the learned lower court with a prayer for bail which learned lower court will consider properly in the background of the finding so recorded hereinabove.

In terms thereof, the instant petition is disposed of.

(Aditya Kumar Trivedi, J)

Surendra/-

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