

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.720 of 2019

Arising Out of PS. Case No.-58 Year-2018 Thana- SHEIKHOPUR SARAI District-
Sheikhpura

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1. Md. Abid @ Rustam son of Md. Iliyas, Resident of Village-Charuawan, P.S.-
Shekhopur Sarai, District-Sheikhpura
 2. Md. Birbal son of Md. Iliyas, Resident of Village-Charuawan, P.S.-
Shekhopur Sarai, District-Sheikhpura
 3. Md. Riyaz son of Late Md. Moiz, Resident of Village-Charuawan, P.S.-
Shekhopur Sarai, District-Sheikhpura
 4. Md. Minhaz son of Late Md. Moiz, Resident of Village-Charuawan, P.S.-
Shekhopur Sarai, District-Sheikhpura
 5. MD. Belal son of Md. Naseem, Resident of Village-Charuawan, P.S.-
Shekhopur Sarai, District-Sheikhpura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Saroj Kumar

For the Opposite Party/s : Mr.Sri Rajendra Singh Shastriji

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 22-01-2019 Heard learned counsel for the petitioners, learned
counsel for the informant as well as learned A.P.P.

The petitioners apprehend their arrest in Shekhopur
Sarai P.S. Case No.58 of 2018 registered under Section 307 and
other minor sections of the Indian Penal Code.

The informant named the petitioners and alleged that
all accused persons assaulted him and others and also snatched
different articles, ornaments and cash.

Learned counsel for the petitioners submits that there
is case and counter case. The counter version being Shekhopur
Sarai P.S. Case No.57 of 2018 has been lodged from the side of



petitioners against the informant and others. It is further submitted that the police after investigation found the case true only under Sections 341, 323, 504 and 506 of the Indian Penal Code but the learned court below took cognizance under Section 307 and other sections of the Indian Penal Code. It is further submitted that from perusal of injury report, it would appear that all the injured got superficial and simple injury. Even the informant got simple injury.

Learned counsel for the informant and learned A.P.P., on the other hand, vehemently opposed the prayer for anticipatory bail. Learned counsel for the informant submitted that the police gave notice to the informant under Section 41 of the Cr.P.C. and the petitioners have got no apprehension of being arrested by the police, therefore, anticipatory bail of the petitioners is not maintainable. On query, it is submitted that the police did not enlarge the petitioners on bail finding the case true only under bailable sections of the Indian Penal Code.

It appears from perusal of F.I.R. of Shekhopur Sarai P.S. Case No.58 of 2018 and counter version being Shekhopur Sarai P.S. Case No.57 of 2018 that both sides entered into mutual assault with each other and, therefore, there is case and counter case. From the side of petitioners, the case was earlier



lodged being Shekhopur Sarai P.S. Case No.57 of 2018. The injuries sustained by the informant and others show that the informant and others were simple in nature. Of course, the police submitted final form finding the case under Sections 341, 323, 504 and 506 of the Indian Penal Code, which are bailable but the learned court below took cognizance under Section 307 and other sections of the Indian Penal Code.

Having considered the facts and the nature of allegation of assault against the petitioners and the fact that the injuries sustained by the informant other were simple in nature, the above named petitioners, in the event of their arrest or surrender before the learned court below within a period of four weeks from the date of receipt/production of a copy of this order, are directed to be enlarged on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M., Sheikhpura in connection with Shekhopur Sarai P.S. Case No.58 of 2018, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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