

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82919 of 2019

Arising Out of PS. Case No.-136 Year-2019 Thana- BARAULI District- Gopalganj

1. Ashok Sharma Son of Rudal Sharma Resident of Village - Belsand, P.S.- Barauli (Madhopur O.P.), Distt - Gopalganj.
2. Niraj Kumar Sharma @ Niraj Sharma Son of Rudal Sharma Resident of Village - Belsand, P.S.- Barauli (Madhopur O.P.), Distt - Gopalganj.
3. Chandan Sharma Son of Rudal Sharma Resident of Village - Belsand, P.S.- Barauli (Madhopur O.P.), Distt - Gopalganj.
4. Chandan Sharma Son of Paras Sharma Resident of Village - Belsand, P.S.- Barauli (Madhopur O.P.), Distt - Gopalganj.
5. Kanti Devi Wife of Rudal Sharma Resident of Village - Belsand, P.S.- Barauli (Madhopur O.P.), Distt - Gopalganj.
6. Budhraj Sharma Son of Nagina Sharma Resident of Village - Belsand, P.S.- Barauli (Madhopur O.P.), Distt - Gopalganj.
7. Makhan Sharma Son of Late Ram Nath Sharma Resident of Village - Belsand, P.S.- Barauli (Madhopur O.P.), Distt - Gopalganj.
8. Guddu Sharma Son of Rajmangal Sharma Resident of Village - Belsand, P.S.- Barauli (Madhopur O.P.), Distt - Gopalganj.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Harendra Prasad, Advocate

For the Opposite Party/s : Mr.Tapeshwar Sharma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 13-12-2019 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

Petitioners in the present case are seeking
anticipatory bail in connection with Barauli (Madhopur O.P.)
P.S. Case No. 136 of 2019 registered for the offences punishable
under Sections 147, 447, 341, 323, 307, 427, 379, 504 and 506



of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioners has placed before this Court the allegations made in the first information report. It is the submission that apparently it is a case of civil dispute between the co-sharers, both the parties are litigating over the land in question and one of the parties is claiming possession by virtue of a decree which is said to have been passed in his favour.

Learned counsel submits that although in the first part of the FIR there are general and omnibus allegations against five persons one of whom Chandan Sharma (Petitioner No. 3 before this Court) of giving assault by lathi on the head of the informant but the fact remains that the informant has not sustained any injury. So far as the next two parts of the FIR are concerned the entire allegations are that of occupying the land, construction of boundary wall and for those alleged act the informant claimed that he has sustained loss of over Rs. 1,00,000/-. The persons named in the next two parts of the FIR have not indulged in any assault and there is no such allegation against them.

Learned APP for the State has though submitted that there are allegations of assault against Chandan Sharma



(Petitioner No. 3) but has not controverted that so far as other petitioners are concerned there is no allegation of assault against them.

In such circumstance, considering the facts and circumstances of this case, the nature of relationship between the parties, the reason of dispute being a land dispute and then there are general and omnibus kinds of allegations against the petitioners except Petitioner No. 3 against whom there is a allegation of giving assault on the head of the informant, this Court directs that in the event of their arrest or surrender within a period of four weeks from today, let the petitioners above named except Petitioner no. 3 be enlarged on bail on furnishing bail bonds of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XIV, Gopalganj in connection with Barauli (Madhopur O.P.) P.S. Case No. 136 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or



indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

So far as petitioner no. 3 is concerned if he surrenders and prays for regular bail in the court below within a period of four weeks from today, his prayer for regular bail shall be considered on its own merit and shall not be rejected only because this Court has not granted him anticipatory bail, the court below shall be obliged to consider the submission of petitioner no.3 that no alleged injury has been caused on the head of the informant and on perusal of the materials which will be available before the court below an appropriate order shall be passed in respect of petitioner no. 3.

(Rajeev Ranjan Prasad, J)

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