

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8846 of 2020

Arising Out of PS. Case No.-161 Year-2019 Thana- GUTHANI District- Siwan

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1. PIYUSH KUMAR MISHRA @ PIUSH MISHRA Son of Sri Jawahar Mishra Resident of Village - Mishra Chapra, P.S.- Guthani, District - Siwan
 2. Abhishek Kumar Mishra Son of Subash Chandra Mishra @ Subash Mishra Resident of Village - Mishra Chapra, P.S.- Guthani, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anjani Kumar Sinha No.1

For the Opposite Party/s : Mr.Kumar Ranjit Ranjan, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 18-12-2020 The learned counsel for the petitioners and learned A.P.P. for the State Mr. Kumar Ranjit Ranjan were heard at length yesterday and today the present case has been listed 'For Orders'.

The petitioners apprehend their arrest in connection with Guthani P.S. Case No. 161 of 2019 for the offence punishable under Sections 147, 148, 149, 341, 342, 323, 307, 379, 427, 504 and 506 of the Indian Penal Code.

The case of the prosecution in brief, according to the informant, is that on 10.10.2019 at about 5:00 p.m. in the evening while the informant was going to the market, on the way the accused persons including the petitioners herein,



variously armed had suddenly attacked the informant, when the informant had reached village Mishra Chapra, whereafter the petitioner no. 1, armed with pistol in his hand and the petitioner no. 2 armed with Garasa in his hand as also the other co-accused persons variously armed, had assaulted the informant. It is alleged that the petitioner no. 1 had hit the informant on his temple by his pistol resulting in the informant falling down whereafter, they had snatched his gold chain and the petitioner no. 2 had taken out a sum of Rs. 5700/- from the pocket of the informant whereupon the petitioner no. 2 had also kicked the informant with his legs on his chest. It is also alleged that the petitioner no. 2 had tried to inflict Garasa blow, however, fortunately he received minor injuries on his left cheek near the neck.

The learned counsel for the petitioners has submitted that the petitioners are innocent, have been falsely implicated in the present case and they are having a clean antecedent. It is further submitted that the injury report would show that without mentioning any sort of injury it has simply been mentioned that the nature of injury is grievous, hence the same is fit to be discarded and the petitioners are liable to be granted the privilege of anticipatory bail.



Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having considered the submissions made by the learned counsel for the parties and having gone through the materials on record as also those available in the case dairy including the injury report, this Court finds that as far as the petitioner no. 1 is concerned, he is stated to have given a blow by his pistol on the temple of the informant, however, in the injury report dated 12.10.2019 annexed to the case dairy, no such injury has been found, hence I deem it fit and proper to admit the petitioner no. 1 to the privilege of anticipatory bail, however, as far as the petitioner no. 2 is concerned, he is alleged to have not only tried to assault the informant by Garasa but had also given repeated blows on the chest of the informant by his legs which stands corroborated by the aforesaid injury report dated 12.10.2019 which shows swelling on the chest of the informant and the doctor has come to a finding that the said injury is grievous in nature, hence I do not find the case of the petitioner no. 2 to be a fit case for grant of anticipatory bail, hence as far as the petitioner no. 2 is concerned, his prayer for grant of anticipatory bail stands rejected.

Accordingly, the *petitioner no. 1*, above named, is



directed to be released on anticipatory bail in the event of his arrest/surrender before the court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Siwan in connection with Guthani P.S. Case No. 161 of 2019 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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