

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12063 of 2020

Arising Out of PS. Case No.-616 Year-2019 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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1. RAUSHAN SAH @ RAUSHAN KUMAR Son of Pappu Sah Resident of Village - Basudeopur, P.S.- Muffasil, District - Begusarai
 2. Rajesh Sah Son of Late Ramphal Sah Resident of Village - Basudeopur, P.S.- Muffasil, District - Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Vikram Deo Singh, Adv.

Mr. Sada Nand Roy, Adv.

For the Opposite Party/s : Mr. Abhay Kumar Roy, APP.

For the Informant : Mr. Praveen Kumar Agrawal, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 27-08-2020 Heard learned counsel for the petitioners, learned

APP for the State and learned counsel for the Informant through

video conferencing.

The petitioners have filed the instant application for grant of anticipatory bail apprehending their arrest in connection with Muffasil P.S. Case No. 616 of 2019 registered under sections 307, 341, 323, 379, 504 and 34 of the Indian Penal Code.

As per allegation in the FIR, it is stated by the informant that the two petitioners herein came and started to abuse his father. On being asked not to abuse, it is stated that the



accused persons with an intention to kill, struck his father on his head with the bamboo stick as a result of which his father sustained injury on the back of his head and fell down unconscious. It is further stated that on the informant intervening to save his father, he was also assaulted by the other accused persons.

It is submitted by learned counsel for the petitioners that while the occurrence is alleged to have taken place on 22.11.2019 at 7.30 a.m., the same was reported to the police on 23.11.2019 at 2.30 p.m. without there being any explanation for the delay. It is further submitted that the allegations are general and omnibus in nature. Other co-accused have been granted bail by the learned Court below. It is submitted that the petitioners have no criminal antecedent.

The application for bail is opposed by learned APP for the State as also learned counsel for the informant.

It is submitted by learned counsel for the informant that in the FIR itself it has been mentioned that the delay in lodging of the same was for the reason of the informant being busy in treatment. Further a counter affidavit has been filed on behalf of the informant bringing on record the C.T. scan report and other documents of treatment of both the informant as also



that of his father. It is submitted that the father of the informant sustained serious injury in his hip and the informant having sustained head injury, may have committed an error in describing the same in the FIR. It is finally submitted that it is not a case for grant of anticipatory bail.

Case diary called for in the case, has been received.

Having heard learned counsel for the parties and on going through the materials on record, it transpires that the categorical case of the informant in the FIR was that as a result of assault by the petitioners, the father of the informant sustained injuries on back of his head and fell down unconscious. Neither any injury report of the father of the informant is available in the case diary nor the injury report or the documents of treatment produced by the informant by way of supplementary affidavit, support the said allegation. From the statement of the father of the informant recorded in course of investigation it transpires that the informant and the petitioners are 'gotiyas' having immovable properties adjacent to each other and the same is the cause of dispute. Thus, in view of the facts and circumstances of the case, the Court is inclined to enlarge the petitioners on anticipatory bail. The petitioners are directed to surrender in the Court below within a period of eight



weeks from today and in the event of their arrest or surrender in connection with Muffasil P.S. Case No. 616 of 2019, they shall be enlarged on bail on each of them furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Begusarai subject to the conditions as laid down under section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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