

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20766 of 2020

Arising Out of PS. Case No.-308 Year-2019 Thana- DHAKA District- East Champaran

1. Kamruddin Rain Son of Late Daroga Mirja Resident of Village - Sakarbasa, P.S.- Cheriya Bariyarpur, District- East Champaran
2. Nijamuddin Rain Son of Late Daroga Mirja Resident of Village - Sakarbasa, P.S.- Cheriya Bariyarpur, District- East Champaran
3. Naimuddin Rain Son of Nijamuddin Raien Resident of Village - Sakarbasa, P.S.- Cheriya Bariyarpur, District- East Champaran
4. Sarfuddin Raien Son of Nijamuddin Raien Resident of Village - Sakarbasa, P.S.- Cheriya Bariyarpur, District- East Champaran
5. Kasmuddin Raien Son of Kamruddin Raien Resident of Village - Sakarbasa, P.S.- Cheriya Bariyarpur, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saroj Kumar Sharma, Advocate
For the Opposite Party/s : Mr. J.N.Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 23-07-2020 The Court proceeding has been conducted through virtual mode.

Since the physical court proceeding is non-functional due to the present pandemic COVID-19, the matter is listed with defects.

Learned counsel for the petitioners undertakes to remove the defects within three weeks of the resumption of the physical Court proceedings.



In case of non-removal of the defects, the office shall place the matter before the bench.

Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners are apprehending their arrest in a case registered for the offence punishable under Sections 447, 341, 323, 379, 354B, 316, 307, 504 and 506/34 of the Indian Penal Code, 1860.

The prosecution case as per the written report of Khairun Nisha submitted to the S.H.O, Dhaka Police Station is to the effect that on 25.08.2019 at 6:00 A.M. five co-villagers including the petitioners came variously armed at the door of the informant and started abusing. On protest being made, Kamruddin Rain and Nizammudin Rain, petitioner Nos. 1 and 2 started assaulting with iron rod causing injury on the right hand of the informant. When the informant's daughter-in-law came to rescue, she was also assaulted by Kasmuddin Rain, petitioner No. 5 on her abdomen causing



termination of the pregnancy. When the other female member Jahiba Khatoon came to rescue then her clothes were torn by petitioner No. 4 Sarfuddin Rain. It is further alleged that daughter-in-law of the informant was assaulted by Naimuddin Rain, petitioner No. 3 by iron rod and subsequently dragged. The accused persons entered into the house of the informant and took out Rs. 10,000/- and jewellery.

It is submitted by learned counsel for the petitioners that in the background of land dispute, the accusation has been levelled. No grievous injury has been caused to the informant's side. Moreover, there is counter version of the occurrence being Dhaka P.S. Case No. 316 of 2019 registered on 26.08.2019 at 4:30 P.M., subsequent to the present F.I.R lodged by the informant with accusation punishable under Sections 341, 323, 354, 379, 307, 504 and 506/34 of the Indian Penal Code. The informant of the said counter case namely Anjum Ara was assaulted, as a result, her



pregnancy got terminated. A medical report to that effect has been brought on record as Annexure-3. The petitioners are accused in one other case which was lodged by other side.

Learned counsel for the State submits that accusation of assault has been levelled by the petitioners.

Considering the genesis of the occurrence being land dispute, there is counter version of the occurrence and the injury has been received by the petitioners' side also, let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of six weeks, be released on provisional anticipatory bail for a period of **four months** on furnishing one surety to the satisfaction of learned S.D.J.M. VI, Dhaka in connection with Dhaka P.S. Case No. 308 of 2019, subject to the conditions as laid down under Section 438(2) Cr.P.C.

However, in view of the present pandemic



COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs. 10,000/-(ten thousands) each with two sureties of the like amount each to the satisfaction of learned S.D.J.M. VI, Dhaka in connection with Dhaka P.S. Case No. 308 of 2019 including one surety given at the time of provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next three months.

Learned Court below on resumption of the



physical Court proceedings will call for the injury report and if it is found that informant's side has not received any grievous injury then the provisional bail will be confirmed but if the informant's side has received grievous injury then the bail of petitioner or petitioners who are responsible for causing such injury will not be confirmed and they will be at liberty to surrender and pray for regular bail.

Accordingly the present application stands disposed of.

(Dinesh Kumar Singh, J)

Shageer/DKS

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