

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20250 of 2020

Arising Out of PS. Case No.-7 Year-2020 Thana- ASHTHAWAN District- Nalanda

1. BHOLA PASWAN S/o Madhusudan @ Masudan Paswan @ Maksudan Paswan R/o village- Jethiar, P.S.- Asthwan, District- Nalanda
2. Madhusudan @ Masudan Paswan @ Maksudan Paswan S/o Indra Dev Paswan R/o village- Jethiar, P.S.- Asthwan, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr .Giridhar Gopal Tiwary

For the Opposite Party/s : Ms .Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 11-09-2020 The court proceeding has been conducted through virtual mode.

Since the court proceeding is not functional in physical mode, due to present Pandemic, Covid -19, the present case has been listed with defects.

Learned counsel for the petitioners undertakes to remove the defect(s) within a period of four weeks of resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken period, the office will place the matter again.

Heard learned counsel for the petitioners and the State.



The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 332, 333, 353, 379, 307, 356, 504/34 of the IPC.

The prosecution case, as per the report of S.I. of Police, Akhilesh Kumar submitted to the S.H.O., Asthawan Police Station is to the effect that on 11.01.2020 at 9.10 P.M., the Station House Officer, Asthawan Police Station conveyed that an information has been received that the petitioners used to manufacture and sell country made liquor, consequently, raid was laid and when the informant reached to the door of the petitioner, petitioner no.1, armed with sword and petitioner no.2 armed with lathi started abusing the informant. It alleged that petitioner no.1 attempted to assault the informant with sword, but he did not receive any injury, whereas petitioner no.2 assaulted the informant with lathi and female family members of the petitioner started pelting bricks, which caused injury on the head of the informant. In the meantime, co-accused Chandan Kumar, Rabo@ Ravindra Paswan and Dinesh Paswan and 5-6 unknown persons came and started assaulting the informant and other police personnel, as a result, some of the police personnel received injuries.

Learned counsel for the petitioners submits that for



alleged occurrence of 11.01.2020 at 10.15 P.M., the FIR was lodged on 12.01.2020 at about 1.45 A.M., when the FIR reached to the court of learned Judicial Magistrate on 14.01.2020, which suggests that by antedating, the FIR has been lodged. As per the FIR, admittedly, petitioner no.2 did not cause any injury and accusation of assault against petitioner no.2 and other FIR named accused persons is omnibus and general when the injury report reflects that all the injured have received superficial injury simple in nature. It is further submitted that no recovery has been made from the possession of the petitioners and only for making protest for insulting the petitioners and their entire family members in the mid night, the petitioners have maliciously been roped in the present case. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP for the State submits that the petitioners are named in the FIR with specific accusation and they obstructed the police personnel in discharging their duty.

Considering the delayed reaching of the FIR to the learned Court below and the accusation of assault being substantially negated by the medical opinion, coupled with statement made in paragraph no.3 of the petition to the effect



that the petitioners are not having any criminal antecedent, let the petitioners above named be released on anticipatory bail for the present provisionally for a period of three months, in the event of arrest or surrender before the learned court below within a period of six weeks, on furnishing one surety to the satisfaction of the learned C.J.M., Nalanda at Biharsarif, in connection with Asthawan P.S. 07 of 2020, subject to the condition as laid down Under Section 438 of the 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 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.10000/- (ten thousand) each with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of



learned C.J.M., Nalanda at Biharsarif, in connection with
Asthawan P.S. 07 of 2020.

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

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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