

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20863 of 2020

Arising Out of PS. Case No.-235 Year-2019 Thana- SIDHWALIYA District- Gopalganj

1. Satan Prasad S/o Ramayan Prasad R/o village- Jalalpur Khurd, P.S.- Sidhwaliya, Distt.- Gopalganj
2. Arjun Prasad S/o Ramayan Prasad R/o village- Jalalpur Khurd, P.S.- Sidhwaliya, Distt.- Gopalganj
3. Parwati Devi w/o Mahendra Prasad R/o village- Jalalpur Khurd, P.S.- Sidhwaliya, Distt.- Gopalganj
4. Dinesh Prasad @ Dinesh Kumar S/o Mahendra Prasad R/o village- Jalalpur Khurd, P.S.- Sidhwaliya, Distt.- Gopalganj
5. Mahesh Prasad S/o Mahendra Prasad R/o village- Jalalpur Khurd, P.S.- Sidhwaliya, Distt.- Gopalganj
6. Ranjan Prasad S/o Satan Prasad R/o village- Jalalpur Khurd, P.S.- Sidhwaliya, Distt.- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar Tiwary

For the Opposite Party/s : Mr.Ramchandra Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

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

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

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

Learned counsel for the petitioners undertakes to remove the defects within three weeks of resumption of court proceeding in physical mode. In the eventuality of non-removal



of defects within undertaken period, the office will place the matter before the bench.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 324, 307, 379 and 504/34 of the Indian Penal Code.

The prosecution case, as per the written report of Jitendra Kumar Prasad submitted to the Station House Officer, Sidhwaliya Police Station, is to the effect that the informant used to work in Musket. On 05.12.2019, the neighbour co-accused Arun Prasad called on mobile phone which was responded by the wife of the informant. It is alleged that the informant started abusing for using obscene words to the wife of the informant. On protest being made, the accused persons came variously armed. It is alleged that petitioner no. 1 Satan Prasad took out of Fasuli and gave it to co-accused Arun Prasad and thereafter, co-accused Arun Prasad assaulted with Fasuli to the informant causing cut injury on the head of the informant. Thereafter, Satan Prasad (petitioner no. 1) with danda, Arjun Prasad (petitioner no. 2) with lathi, Ranjan Prasad (petitioner no. 3) and co-accused Mahendra Prasad with sword assaulted the informant, as a result, the informant fell down and when the son of the informant came to rescue, the informant saw that Mahesh



Prasad (petitioner no. 5) snatched a gold chain and Dinesh Prasad (petitioner no. 4) snatched a wrist watch from the son of the informant and thereafter, all the accused persons assaulted the informant. Subsequently, the informant was taken to hospital, in the meantime, the mother of the died and hence, the case was lodged.

It is submitted by learned counsel for the petitioners that for the alleged occurrence of 05.12.2019, the FIR was registered on 10.12.2019. The informant has received only two injuries, i.e., one sharp cut wound on the forehead and other bruise on right index and which have been found simple. The injury caused on the head alleged to be caused by co-accused Arun Prasad, who is not petitioner before this Court. The accusation of assault by eight accused persons is not corroborated by medical opinion as only two injuries have been found. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that the petitioners are named in the FIR.

Considering the fact that the specific accusation of assault on the head is against co-accused Arun Prasad, who is not the petitioner, and accusation of assault by eight accused



persons not being corroborated by medical opinion, let the petitioners above named be released on provisional anticipatory bail for three months, in the event of arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing one surety to the satisfaction of the learned Additional Chief Judicial Magistrate-XVI, Gopalganj in connection with Sidhwaliya P.S. Case No. 235 of 2019.

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 thousand) each with two sureties, including one surety given at the time of provisional bail of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-XVI, Gopalganj in connection with Sidhwaliya P.S. Case No. 235 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.



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

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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