

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.20745 of 2020**

Arising Out of PS. Case No.-266 Year-2019 Thana- TEKARI District- Gaya

1. Birendra Mahto @ Birendra Prasad Son of Jagdev Prasad Resident of Village - Koiri Bigha, Tola Jalalpur, Police Station - Tikari District - Gaya.
2. Chhotu Kumar @ Niranjan Kumar Son of Birendra Mahto @ Birendra Prasad Resident of Village - Koiri Bigha, Tola Jalalpur, Police Station - Tikari District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Kunwar Narayan Jamuar  
For the Opposite Party/s : Mr.Syed Ehteshamuddin

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

2      21-07-2020                      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 323, 354, 504 and 506/34 of the Indian Penal Code, 1860.

The prosecution case as per the written report of Umesh Kumar submitted to the S.H.O, Tekari Police Station is to the effect that on 28.07.2019 at 3:00 P.M., the informant was working in his drainage, in the meantime, both the petitioners came and assaulted with iron rod on the head, eye and the leg of the informant. They also assaulted with iron rod on the back of the informant and his wife.

It is submitted by learned counsel for the petitioners that in the background of land dispute, the accusation has been levelled. The case lodged by the petitioners' side against the informant being Tekari P.S. Case No. 265 of 2019 with accusation for the offences



punishable under Sections 323, 341, 337, 448 and 506/34 of the Indian Penal Code registered on 28.07.2019 at 10:00 P.M. whereas the present F.I.R was registered on the same day at 10:30 P.M. The injury of the informant is superficial, simple in nature whereas the injury of the wife of the informant suggests that her sixth rib was found fractured. There is specific accusation of making assault on the back of the wife of the informant but there is no injury on the back. The injury has been caused since she fell down on hard surface.

Learned A.P.P. for the State submits that accusation of assault is specific against the petitioners.

Considering the fact that the case registered by the petitioners' side is at earlier point of time, only grievous injury found to the informant's wife is fracture of rib when there is specific accusation of making assault on her back but there is no injury on back and also genesis of the occurrence being land dispute, coupled



with the statement that petitioners are not having any criminal antecedent, 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 three months on furnishing one surety to the satisfaction of learned Additional Chief Judicial Magistrate-VI, Gaya in connection with Tekari P.S. Case No. 266 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 Additional Chief Judicial Magistrate-VI, Gaya in connection with Tekari P.S. Case No. 266 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.

Accordingly, the application stands disposed of.

**(Dinesh Kumar Singh, J)**

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