

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22268 of 2020

Arising Out of PS. Case No.-17 Year-2020 Thana- KORANSARAI District- Buxar

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1. Jitendra Tiwari S/o Bharat Gosai @ Bharat Tiwari Resident of Village-Mathiya, P.S.- Koransarai, District- Buxar.
 2. Bharat Gosai @ Bharat Tiwari S/o Late Nathuni Gosai Resident of Village-Mathiya, P.S.- Koransarai, District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar Gupta
For the Opposite Party/s : Mr.APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-08-2020 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 languishing in custody since



13.02.2020 in a case registered for the offences punishable under Sections 341, 323, 504 and 307/34 of the Indian Penal Code, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the fardbeyan of Vivek Tiwary recorded by Rajan Malviya, Station House Officer, Koransarai P.S. on 12.02.2020 at 5.30 P.M., is to the effect that on the same day at 1.00 P.M., Jitendra Tiwari, Bharat Gosai, the petitioners and co-accused Munni Devi, wife of petitioner no. 2 opened drainage in front of the house of the informant. On protest being made, the accused persons started abusing and making assault. It is specifically alleged that petitioner no. 1 Jitendra Tiwari assaulted with Rama, a hard blunt substance, on the head of the informant causing bleeding injury, when the brother of the informant, Mohan Tiwari and his mother, Mina Devi came to rescue then they were also assaulted. Thereafter, the injured were brought to the Sub-divisional Hospital.

It is submitted by learned counsel for the petitioners that in the background of drainage dispute, the accusation has been levelled. The petitioners have also received injuries in the said incident. It is further submitted that there is a counter version of the occurrence, but statement to that effect



has not been made in the petition. The investigation has already been concluded. 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 out of three injured, the informant and his brother, Mohan Tiwari have received one grievous injury each, though, the injury of Mina Devi has been found simple in nature.

Considering the genesis of the occurrence being the drainage dispute, the petitioners being the agnates of the informant, investigation has already been concluded and a statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the petitioners above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Chief Judicial Magistrate, Buxar in connection with Koran Sarai P.S. Case No. 17 of 2020.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon 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 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 the learned Chief Judicial Magistrate, Buxar in connection with Koran Sarai P.S. Case No. 17 of 2020.

The learned Court below is 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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