

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 22076 of 2020

Arising Out of PS Case No.-41 Year-2020 Thana- Doriganj District- Saran

1. Sunil Mahto, aged about 30 Years (Male).
2. Birendra Mahto, aged about 19 years (Male) Both are Son of Asharfi Mahto, Resident of Village- Bhairapur, P.S.- Doriganj, District- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashutosh Tripathy, Advocate
For the State	:	Mr. Sanjay Kumar, APP
For the Informant	:	Mr. Ashutosh Nath, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 13-08-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Ashutosh Tripathy, learned counsel for the petitioners; Mr. Sanjay Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Ashutosh Nath, learned counsel for the informant, who has *suo motu* appeared.

3. The petitioners are in custody in connection with Doriganj PS Case No. 41 of 2020 dated 01.04.2020, instituted



under Sections 341, 323, 324, 307, 147, 148 and 149 of the Indian Penal Code.

4. The allegation against the petitioners and four others is of attack by knife, *lathi*, *danda* and brickbats on the informant and his mother resulting in injuries.

5. Learned counsel for the petitioners submitted that the allegation against all is general and omnibus and that the present case is a counterblast to Doriganj PS Case No. 43 of 2020 instituted on 02.04.2020, against the informant of the present case and his family members for attempt to outrage the modesty of wife of the petitioner no. 1 and thereafter assault on her and her family members. Learned counsel submitted that the other FIR has been lodged by the wife of the petitioner no. 1. It was further submitted that the informant used to create nuisance in the locality and in a drunken state had entered into the house of the petitioner no. 1 and he also wanted to grab the land of the petitioners. Learned counsel submitted that petitioner no. 1 is in custody since 02.04.2020 and petitioner no. 2 since 04.04.2020, having no criminal antecedent.

6. Learned APP submitted that there is direct allegation of inflicting multiple knife wound on the informant which has also been noted in the impugned order by which the prayer for bail of



the petitioners were rejected by the learned Sessions Judge, Saran on 08.06.2020 in Bail Petition No. 485 of 2020.

7. Learned counsel for the informant submitted that two wounds caused by knife have been found on the right chest and two on the left chest and one on the thigh of the informant due to which he had to be brought to Paras Hospital at Patna where a team of army doctors operated on him and he was on a ventilator for 20 days and even now he is in the Army Hospital at Danapur and has been paralyzed in the left leg. Learned counsel submitted that the allegation in the counter case is only as a defence and even the police have not found any serious injury and, thus, Doriganj PS Case No. 43 of 2020, has been instituted only under Sections 341, 323, 324, 354, 504, 506/34 of the Indian Penal Code. Learned counsel submitted that in the counter case also, there is no allegation of the informant of the present case being in a drunken state.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the submissions of learned APP and learned counsel for the informant and is not inclined to enlarge the petitioners on bail.

9. Accordingly, the application stands dismissed.



10. Before parting, the Court would only observe that the application filed on behalf of the petitioners discloses serious discrepancies. However, as apology has been tendered by learned counsel for the petitioners for such mistake, the Court is not passing any orders with regard to the same.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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