

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23493 of 2020**

Arising Out of PS. Case No.-26 Year-2020 Thana- RAUTARA District- Katihar

1. MD. SAFIQUE S/o Late Maulvi Abdul Salam Resident of Village-Nayatola Chapi, P.S.-Rautara, District-Katihar.
2. Md. Naiyer S/o Md. Safique Resident of Village-Nayatola Chapi, P.S.-Rautara, District-Katihar.
3. Md. Arfin @ Md. Arfin Alam S/o Md. Safique Resident of Village-Nayatola Chapi, P.S.-Rautara, District-Katihar.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bhola Prasad,Advocate

For the Opposite Party/s : Mr.Arun Kumar Singh No. 5, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 06-10-2020 Learned counsel for the petitioners undertakes to remove all the defects pointed out by Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners and Mr. Arun Kumar Singh, learned APP for the State.

The petitioners in the present case are seeking pre-arrest bail in connection with Rautara P.S. Case No. 26 of 2020 registered for the offences punishable under Sections 147, 148, 324, 307, 379, 504, 354, 506 of the Indian Penal Code.

Learned counsel for the petitioners submits that the informant is own brother of the petitioner no. 1 and from the First Information Report itself it will appear that both the co-sharers are having some dispute over measurement of land. It is alleged that on



the date of occurrence petitioner no. 1 was abusing the informant whereupon the informant objected and thereafter petitioner no. 1 called his other family members who came there lashed with lathi/danda and sword. Altogether six other persons including wife and sons of petitioner no. 1 have been named in the FIR.

Learned counsel submits that there is a specific allegation to the effect that on asking of petitioner no. 1 to kill the informant petitioner no. 3 assaulted on the head of the informant by sword and thereafter all the persons started assaulting him by iron rod and lathi/danda but the allegation of assault by sword is not substantiated from the injury report which has been brought on record by way of Annexure '2' series.

Learned counsel points out that as against the allegation of causing injury by sword one injury on the head of the informant has been found and the same has been said to be simple and caused by hard and blunt substance. Learned counsel submits that in view of the injury report the allegations against petitioner no. 3 stands falsified. He further submits that the general and omnibus allegations that all the accused persons started assaulting the informant by iron rod and lathi/danda is also not substantiated from the injury report and those are also not specific against these petitioners.

It is then submitted that so far as the allegation of assault caused to the wife and son of the informant are concerned, the same are not specific. It is then submitted that there is a counter case being



Rautara P.S. Case No. 28 of 2020 lodged by wife of petitioner no. 3 and from the counter case it will appear that the informant's side of the present case had entered in the house of the petitioners and had indulged in abuse and indecent behaviour with the wife of petitioner no. 3.

Learned APP for the State has though opposed the prayer for anticipatory bail of the petitioner, however, considering the facts and circumstances of the case wherein it appears that both the parties are own brothers, there is a land dispute and on account of the said land dispute the alleged occurrence is said to have taken place, there is an allegation against petitioner no. 1 that he had instigated but there is no specific allegation of causing assault against him, so far as petitioner no. 2 is concerned again there is no specific allegation against petitioner no. 2 save and except that he has been named in the FIR and then the allegation against petitioner no.3 that he had given a blow on the head of the informant by a sword is not getting support from the injury report as the only injury on the head of the informant is said to have been caused by hard and blunt substance and not by a sword, the petitioners have otherwise no criminal antecedent, there is a counter case also, let the petitioners above-named in the event of their arrest or surrender within four weeks from today, be released on bail on furnishing of bail bonds of Rs. 25,000/- (Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned J.M. 1st Class, Katihar, in connection with



Rautara P.S. Case No. 26 of 2020, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

This application is allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

