

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 25358 of 2020

Arising Out of PS Case No-10 Year-2020 Thana- KUDHNI District- Kaimur (Bhabua)

1. Shatyendra Ray, aged about 46 years, Male.
2. Jitendra Ray, aged about 40 years, Male.

Both Sons of Gopal Ray, both resident of Village- Dumduma, P.S.- Kudhni,
District- Bhabhua (Kaimur).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P K Shahi, Sr. Advocate with Mr. Shashi Kumar, Advocate
For the State	:	Ms. Sucheta Yadav, APP
For the Informant	:	Mr. Samrendra Kumar Jha, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 04-11-2020

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

2. Heard Mr. P K Shahi, learned senior counsel along with Mr. Shashi Kumar, learned counsel for the petitioners; Ms. Sucheta Yadav, learned Additional Public Prosecutor (hereinafter



referred to as the 'APP') for the State and Mr. Samrendra Kumar Jha, learned counsel for the informant.

3. The petitioners apprehend arrest in connection with Kudhni PS Case No. 10 of 2020 dated 16.05.2020, instituted under Sections 147, 148, 149, 323, 341, 325, 307, 379 and 384 of the Indian Penal Code and 27 of the Arms Act.

4. The allegation against the petitioners along with five others is of having assaulted the informant and his brother resulting in injuries.

5. Learned counsel for the petitioners submitted that there is a case and counter case and there was a scuffle between the parties. Learned counsel submitted that they have also filed Kudhani PS Case No. 11 of 2020 and the two cases have been filed almost at the same time with regard to the same incident. It was submitted that as per the allegation, there is direct and specific overt act alleged against the petitioners of hitting the informant and his brother but the injury report discloses only simple injury caused by hard blunt substance and there is one other injury found on the informant i.e., the fracture of a bone on his hand which is said to be grievous in nature but the same has not been attributed to either of the petitioners which would clearly indicate that if at all, the allegations are to be believed, the same



was caused by the remaining five co-accused. It was submitted that all the remaining five co-accused have been granted anticipatory bail by the Court below itself and, thus, the petitioners at best are accused of only inflicting simple blow on the head by hard and blunt substance. It was further submitted that there was no repeated blow on the informant or his brother and further that there are cosmetic additions with regard to snatching of Rs. 5,000/- against the other co-accused. Learned counsel submitted that the petitioner no. 1 is accused in a defamation case and the petitioners no. 1 and 2 are also accused in a complaint case under Section 323 of the Indian Penal Code, both filed by the present prosecution side.

6. Learned APP submitted that there is allegation of assault on the head and the injury report also discloses head injury. However, he could not deny that the same are simple in nature.

7. Learned counsel for the informant submitted that the grievous injury of fracture on the left index finger has also been caused by the blow of the petitioners as it is a natural course of reaction that a person to save himself from a blow would raise his hand resulting in injury on the same. However, he could not controvert the fact that there is no such allegation in the FIR and the only specific allegation is that the petitioners had assaulted the



informant and his brother on the head by *lathi* and the injury has been found to be simple in nature.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM-III, Bhabhua (Kaimur) in Kudhani PS Case No. 10 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, and (iii) that the petitioners shall also give an undertaking to the Court that they shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the case and be present before the Court below on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.



9. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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