

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 25401 of 2020

Arising Out of PS Case No.-123 Year-2020 Thana- NARPATGANJ District- Araria

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1. Mukesh Sharma, aged about 18 years (M), Son of Shankar Sharma.
 2. Amar Sharma @ Khem Narayan Sharma, aged about 22 years (M), Son of Shankar Sharma.
 3. Murlidhar Sharma, aged about 32 years (M), Son of Balram Sharma.
 4. Dharm Dev Sharma, aged about 30 years (M), Son of Balram Sharma.
 5. Balram Sharma @ Baliram Sharma, aged about 70 years (M), Son of Late Gujai Sharma.
- All are Residents of Village- Madhura Dakshin Ward No. 04, P.S.- Narpatganj, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Rana, Advocate
For the State	:	Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 06-11-2020

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

2. Heard Mr. Mukesh Kumar Rana, learned counsel for the petitioners and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Narpatganj PS Case No. 123 of 2020 dated 08.03.2020, instituted



under Sections 341, 323, 325, 354, 307, 379, 504/34 of the Indian Penal Code.

4. The allegation against the petitioners is that they had stolen the mobile phone of the informant a few months prior to the incident and when he saw petitioner no. 1 talking on that mobile and had asked him to explain, all the accused persons had come to the house of the informant and petitioner no. 1 had assaulted the informant with iron rod leading to injury on his head.

5. Learned counsel for the petitioners submitted that the allegation is totally false and frivolous. It was submitted that the parties are neighbours and there is dispute between them due to which this false case has been instituted. It was submitted that there is no explanation as to why informant had not filed any complaint or information before the authorities if it is correct that his mobile was lost from his shop on 25.12.2019 and only after two and a half months on 07.03.2020, he alleges that he saw the petitioner no. 1 talking on the said mobile. It was submitted that besides the same being absurd, it is not believable that a person would recognize his mobile set in another person's hand from such a far distance, as the mobile sets do not have any distinguishing feature which can be recognized from afar. It was



further submitted that the informant has not even stated or given proof of purchase of his mobile set as also the technical details like serial number etc. of the set so that it can be verified and moreover, nowadays, from the mobile service providers itself, it can be found out if somebody else is using the mobile set of another person as such information is available with them. Learned counsel submitted that even the injury which is said to have been inflicted by petitioner no. 1 has been found to be simple in nature and further that the petitioners have no criminal antecedent.

6. Learned APP submitted that as per the allegation, the petitioners had stolen the mobile of the informant and had also assaulted him and had taken away Rs. 5,400/- from his pocket and gold chain from the neck of his wife. However, he could not controvert the fact that the injury found on the informant is lacerated wound on the head being simple in nature.

7. 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 Chief Judicial Magistrate, Araria in Narpatganj PS Case No. 123 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further, that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners. Any violation of the of the same shall lead to cancellation of their bail bonds.

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

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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