

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33023 of 2020

Arising Out of PS. Case No.-28 Year-2020 Thana- KANGLI District- West Champaran

1. Lalyogi Baitha, aged about 55 years (M), son of Mohipal Baitha,
2. Bijali Baitha @ Bijuli Baitha, aged about 38 years (M), son of Lalyogi Baitha, both are resident of Village- Gad Gamharia, Police Station- Kangali, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bashishtha Narayan Mishra, Advocate
For the State	:	Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 27-01-2021

Heard Mr. Bashishtha Narayan Mishra, learned counsel for the petitioners and Dr. Kumar Uday Pratap, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

2. The petitioners are in custody in connection with Kangali PS Case No.28 of 2020 dated 05.05.2020, instituted under Sections 147/148/341/323/324/307/379/504/506 of the Indian Penal Code.

3. The allegation against the petitioner no.1 is that he gave blow of *farsa* on the head to Ashok Baitha, whereas, petitioner no. 2 is said to have inflicted *farsa* blow to Shambhu Baitha resulting in injury.

4. Learned counsel for the petitioners submitted that



the parties are next door neighbours and the dispute was with regard to passage and there is a counter case also. Learned counsel submitted that whatever happened, at best, was on the spur of the moment without there being any intention to commit any crime, much less, kill. Learned counsel submitted that with regard to the blow inflicted by petitioner no. 1, the injury report discloses the same to be simple. However, he submitted that with regard to petitioner no. 2, the injury report discloses one simple wound and one wound leading to fracture in the parietal region. Learned counsel submitted that the petitioners do not have any criminal antecedent and the petitioner no. 1 is in custody since 09.05.2020 and the petitioner no. 2 since 08.06.2020.

5. Learned APP submitted that the attack by *farsa* itself discloses the intention to kill and it cannot be said that the petitioners are innocent.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner no.1 be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the Judicial Magistrate, 1st Class, Bettiah, West Champaran, in Kangali PS



Case No.28 of 2020, subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, 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 his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

7. The application for bail on behalf of the petitioner no. 2, namely, Bijali Baitha @ Bijuli Baitha stands rejected, for the present.

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

(Ahsanuddin Amanullah, J)

J. Alam/-

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