

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58294 of 2019

Arising Out of PS. Case No.-16 Year-2006 Thana- GURUA District- Gaya

-
1. UPENDRA YADAV Son of Raja Ram Yadav Resident of Village - Katwara, P.S.- Gurua, District- Gaya
 2. Brahmdeo Paswan Son of Ram Jatan Paswan @ Ram Ratan Paswan Resident of Village - Katwara, P.S.- Gurua, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Adv.

For the Opposite Party/s : Mr. (Dr.) Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 27-05-2020 The matter has been taken up through virtual Court proceeding.

Heard Mr. Krishna Prasad Singh, learned Sr. Counsel for the petitioners and Mr. Dr. Kumar Uday Pratap, learned APP for the State.

The petitioners who are in custody since 27.06.2019 have preferred the present application for grant of bail in a case registered for the offences punishable under Sections 302 and 323/34 of the Indian Penal Code.

The prosecution case which got initiated on the Fardbeyan of Durgesh Yadav, recorded by Binod Prasad Singh, S.I., Gurua Police Station on 09.03.2006 at 9.55 P.M. at Primary Health Centre, Gurua is to the effect that on 09.03.2006, the informant



along with his elder brother Uday Yadav and one Sumendar Yadav were returning home, on the way, seven accused persons, including the petitioners, surrounded and assaulted the brother of the informant with lathi. Subsequently, the brother of the informant succumbed to the injuries.

It is submitted by learned counsel for the petitioners that the accusation of assault is omnibus and general against the seven accused persons, including the petitioners. Moreover, similarly situated co-accused, Rajendra Yadav @ Rajindra Yadav has been granted bail by a Co-ordinate Bench of this Court vide order dated 25.09.2018 passed in Criminal Miscellaneous No.42303 of 2018, on the ground that the postmortem report reflects three injuries out of which, two injuries have been found to be simple abrasion. It is further submitted that apart from the present case, petitioner no.1 is accused in one other case, in which he has been granted bail, whereas, petitioner no.2 is accused in two other cases and in both the cases, he has been granted bail.

Learned APP for the State submits that the petitioners are alleged to have assaulted the brother of the informant. However, he does not controvert the fact that the similarly situated co-accused has been granted bail by a Co-



ordinate Bench of this Court.

Considering the omnibus and general nature of accusation against seven accused persons, including the petitioners who are alleged to have assaulted the brother of the informant, but the postmortem report reflects only three injuries out of which two injuries have been found simple abrasion coupled with the fact that similarly situated co-accused has been granted bail by a Co-ordinate Bench of this Court, let the petitioner above named be released on bail provisionally for a period of three months for the present on furnishing one surety to the satisfaction of the learned SDJM, Sherghati, Gaya, in connection with Gurua P.S. Case No.16 of 2006.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two



sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned SDJM, Sherghati, Gaya, in connection with Gurua P.S. Case No.16 of 2006.

The learned Court below is at liberty to further extend the period of provisional bail if the lock down is not over in next three months.

(Dinesh Kumar Singh, J)

Ashwini/-

U		T	
---	--	---	--

