

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78310 of 2019

Arising Out of PS. Case No.-10 Year-2019 Thana- GHANSHYAMPUR District- Darbhanga

1. Shyam Yadav, aged about 36 years, Gender: Male, Son of Late Soti Yadav.
2. Bhumi Yadav, aged about 40 years, Gender: Male, Son of Late Soti Yadav.
3. Mahabir Yadav, aged about 60 years, Son of Late Soti Yadav.
4. Birendra Yadav @ Biran Yadav, aged about 26 years, Son of Ram Sewak Yadav.
All resident of village and P.O.-Bagharas, Police Station- Ghanshyampur, District- Darbhanga.
5. Laxmi Yadav, aged about 33 years, Gender; Male, Son of Yogi Yadav, Resident of Village- Asma, P.S.- Ghanshyampur, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-09-2020

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

2. Heard Mr. Prafull Chandra Jha, learned counsel for the petitioners and Mr. Ajit Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Ghanshyampur PS Case No.10 of 2019 dated 13.01.2019, instituted under Sections 147, 148, 149, 341, 323, 324, 325, 307, 379, 504 and 506 of the Indian Penal Code.

4. The allegation against the petitioners and seventeen



others is of assaulting the informant and others.

5. Learned counsel for the petitioners submitted that the parties are agnates and there is land dispute, as has been admitted in the FIR itself, where it is stated that while the informant and others were cutting soil, the petitioners and others are said to have come there and they assaulted the informant and others. Learned counsel submitted that from the side of the petitioners also Ghanshyampur PS Case No.11 of 2019 was instituted, on the same day, relating to the same incident, under Sections 147, 148, 149, 341, 323, 324, 325, 307, 504 and 506 of the Indian Penal Code. Learned counsel submitted that there are injuries on the side of the petitioners also and one of the accused in the present case had to be referred for treatment to Darbhanga Medical College and Hospital. It was submitted that against the petitioners no. 1, 4 and 5, even as per the FIR, the injuries inflicted on the victims are simple in nature and only the injuries inflicted by petitioners no. 2 and 3 are said to be serious. Learned counsel submitted that petitioners no. 1 and 5 have no criminal antecedent and against petitioners no. 2, 3 and 4, there is one other case i.e., Ghanshyampur PS Case No.43 of 2019, which has been registered under Sections 448, 341, 323, 379, 504/34 Indian Penal Code in which they are on bail. Learned counsel submitted that the Inspector has submitted a joint report



to the Deputy Superintendent of Police dated 21.02.2019, in both the present case i.e., Ghanshyampur PS Case No.10 of 2019 as well as Ghanshaympur PS Case No.11 of 2019.

6. Learned APP, from the case diary, submitted that the petitioners came in a mob and had assaulted the informant and others. However, he did not controvert the fact that as per the allegation, the blow of only petitioners no. 2 and 3 have caused grievous injuries, whereas, the assault by petitioners no. 1, 4 and 5 have resulted only in minor injuries and further, that the parties are agnates.

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 no.1, 4 and 5, namely, Shyam Yadav, Birendra Yadav @ Biran Yadav and Laxmi Yadav, 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 S.D.J.M., Biraul, Darbhanga, in Ghanshyampur PS case No.10 of 2019, 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 and (ii) that the petitioners and the bailors shall execute bond with regard to



good behaviour of the petitioners. 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 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.

8. Prayer for anticipatory bail of petitioners no. 2 and 3, namely, Bhumi Yadav and Mahabir Yadav, is rejected. They may surrender before the Court below and pray for bail, which shall be considered on its own merits, in accordance with law.

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

(Ahsanuddin Amanullah, J)

J. Alam/-

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