

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78065 of 2019

Arising Out of PS Case No.-220 Year-2019 Thana- MUSHAHARI District- Muzaffarpur

1. Devnarayan Mahto, aged about 63 years, Son of Late Harinder Mahto @ Harihar Mahto.
 2. Awadhesh Kumar, aged about 28 years, Male, Son of Devnarayan Mahto.
 3. Manoj Sah @ Manoj Kumar, aged about 39 years, Male, Son of Ratan Sah.
 4. Vijay Kumar, aged about 21 years, Male, Son of Arun Sah.
- All resident of Village - Baikatpur, P.S.- Mushahari, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
For the State : Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 25-08-2020

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

2. Heard Mr. Manoj Kumar, learned counsel for the petitioners and Mr. Nagendra Prasad, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Mushahari PS Case No. 220 of 2019 dated 11.09.2019, instituted under Sections 147, 148, 149, 341, 323, 325, 379, 307, 504 and 506 of the Indian Penal Code.



4. The present application is restricted to petitioners no. 1, 2 and 4 as petitioner no. 3 having been arrested, the application on his behalf has already become infructuous.

5. The allegation against the petitioners and five others is of assault with pistol, *farsa*, *sword* and iron rod resulting in injury on the informant and two others.

6. Learned counsel for the petitioners submitted that the allegation is general and omnibus without there being any specific over action alleged against any of the petitioners. It was further submitted that the injury of the informant and another victim is simple whereas with regard to the third, who was referred to Patna, no injury report is available and there was only two stitch mark found on his head. It was submitted that even the cause of dispute is fabricated as the petitioners and other accused were fishing in the *Jalkar* which they have taken on lease from the owners. In support thereof, learned counsel drew the attention of the Court to Annexure 2 series which are copies of the so-called lease in favour of co-accused Manoj Kumar. Learned counsel submitted that the petitioners have no other criminal antecedent. It was further submitted that the informant and others had brutally assaulted Manoj Sah @ Manoj Kumar (original petitioner no. 3) for which Mushahari PS Case No. 163 of 2019 dated 25.06.2019,



was lodged and to get over the said case, the present case has been filed as a counterblast and further, another case was also filed, being Mushahari PS Case No. 218 of 2019, by the original petitioner no. 3 against the informant and others on 06.09.2019. Learned counsel submitted that besides the present four original petitioners, the remaining five co-accused have been granted anticipatory bail in Cr. Misc. No. 73536 of 2019, by order dated 21.11.2019.

7. Learned APP, from the case diary, submitted that the petitioners were part of the mob which had brutally assaulted the informant and two others causing injuries. It was further submitted that during investigation, it has come that the area where the incident occurred was private *Jalkar* and had been settled by the owners in favour of both the parties.

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 petitioner no. 1, 2 and 4 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 Additional Chief Judicial Magistrate, VI, Muzaffarpur in Mushahari PS Case No. 220 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, (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 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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