

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78982 of 2019

Arising Out of PS Case No.-44 Year-2017 Thana- IMADPUR District- Bhojpur

1. Brajesh Kumar, aged about 25 years (Male), Son of Hiranand Singh.
2. Santosh Kumar @ Santosh Kumar Yadav, aged about 24 years (Male), Son of Gharbharan Singh.
3. Mukesh Kumar @ Mukesh Yadav, aged about 28 years (Male) Son of Gharbharan Singh.
All Residents of Village- Rajapur Pachrukhiya Tola, P.S.- Imadpur, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Brajendra Nath Pandey, Advocate
For the State	:	Ms. Anita Kumari Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 25-09-2020

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

2. Heard Mr. Brajendra Nath Pandey, learned counsel for the petitioners and Ms. Anita Kumari Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Imadpur PS Case No. 44 of 2017 dated 24.10.2017, instituted under Sections 147, 148, 341, 325, 307, 379, 354 and 504 of the



Indian Penal Code (hereinafter referred to as the 'IPC') and Section 27 of the Arms Act.

4. The prosecution case is that one Ramita Devi, wife of Sanjay Singh gave a written statement that on 24.10.2017 alleging therein that while she was making food along with her mother and sister, then Hiranand Singh and his wife began to abuse and she protested. Hiranand Singh along with other co-accused persons entered into her house and they assaulted her and his sister and mother. It is also alleged that Hiranand and Brajesh assaulted the mother on her head due to that she has suffered head injuries. Santosh and Mukesh tried to outrage the modesty of the informant and assaulted her on head resulting in injury. It is also alleged that Brajesh fired from countrymade pistol on the informant, Santosh snatched gold chain and locket from the neck of the informant's mother, gold chain of informant was snatched by Dhanjee and Mukesh took her ear tops.

5. Learned counsel for the petitioners submitted that the present case is by way of a counter case first as prior to this the petitioners' side had lodged Imadpur PS Case No. 43 of 2017 under sections 341, 323 and 307 of the IPC in which Hiranand Singh was badly assaulted by informant side and he sustained various injuries including grievous injuries and the informant side



were the aggressors. It was submitted that earlier also there have been cases against each other due to land dispute for which the petitioners' side had lodged Imadpur PS Case No. 25 of 2017 against the informant and others to which a counter case was lodged by petitioner's side, being is Imadpur PS Case No. 26 of 2017. Learned counsel submitted that in view of this, there being long standing dispute between two sides is admitted.

6. Learned counsel submitted that the entire family of Hira Nand Singh i.e., father of the petitioner no. 1, have been impleaded in the present case due to *mala fide* reason. He submitted that the informant in the initial part of FIR has made allegation of assault by 11 persons due to which informant, her mother and sister sustained injuries, meaning thereby that she has made general and omnibus allegations as to who had assaulted whom. Learned counsel submitted that with regard to allegation of assault by Hiranand and petitioner no. 1, namely Brajesh, causing fracture on head, the injury has been found to be simple in nature caused by hard and blunt substance, as opined by the doctor. Similarly, it was contended that the allegation against petitioner no. 3 that he, along with Santosh, had tried to molest the informant and assaulted her, it is an improvement in later part of FIR and injuries have also been found to be simple in nature an



further, that so far allegation against petitioner no. 2 is concerned, that he snatched gold chain and locket from mother of informant, seems to ornamental in nature.

7. It was further submitted that that during investigation, independent witnesses have stated that the informant and others had attacked the father of the petitioner no. 1 due to which he and his father, who is also co-accused, had got into a fight with *danda* in their hand and both the sides had then clashed, which resulted in injuries to both sides. Learned counsel submitted that witnesses have also stated that the rest of the accused have been only implicated because they are family members though they were not even present at the spot. It was submitted that the petitioners are young and deliberately implicated so as to destroy their future. He submitted that the petitioner no. 1 has one case, that is Imadpur PS Case No. 26 of 2017, in which he is on bail and this case is by way of counter to the case earlier filed by his side, that is, Imadpur PS Case No. 25 of 2017 and petitioners no. 2 and 3 have clean antecedent.

8. Learned APP, from the case diary, submitted that three witnesses have supported the prosecution story, though they are relatives of the informant. However, she did not controvert that three independent witnesses have stated that the petitioner no. 1's



father and grandfather only were involved in the incident and that too, when the informant had first attacked the father of the petitioner no. 1 and also that other accused have been falsely implicated by the informant due to previous dispute relating to a drain. She also did not controvert the fact that the allegation of assault on the head causing grievous injuries is not corroborated by the injury report by the doctor who has found such injury to be simple in nature.

9. 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, Bhojpur at Ara in Imadpur PS Case No. 44 of 2017, 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.

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

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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