

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79167 of 2019

Arising Out of PS. Case No.-30 Year-2019 Thana- BUXAR INDUSTRIAL District- Buxar

- =====
1. Haridwar Singh, aged about 30 years (M), S/o Late Uday Singh, R/o village- Dalsagar, P.S.- Buxar (Ind.), Distt. - Buxar
 2. Shyam Bihari Yadav, aged about 50 years, (M), S/o Late Ram Swarup Yadav R/o village- Balihar, P.S.- Simari, Distt. - Buxar

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Dr. Kamal Deo Sharma, Advocate
For the State	:	Mr. Rana Randhir Singh, APP
For the Informant	:	Mr. Parijat Saurav, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 21-10-2020

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

2. By order dated 23.09.2020, the application is now limited on behalf of petitioner no. 1, namely Haridwar Singh as on behalf of petitioner no. 2, namely Sham Bihari Yadav, the application stood withdrawn, having already been arrested.

3. Heard Dr. Kamal Deo Sharma; learned counsel for the petitioner no. 1; Mr. Rana Randhir Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the



State and Mr. Parijat Saurav, learned counsel for the informant.

4. The petitioner no. 1 apprehends arrest in connection with Buxar (Industrial Area) PS Case No. 30 of 2019 dated 26.02.2019, instituted under Sections 147/ 148/ 149/ 341/ 323/ 324/ 504/ 506 of the Indian Penal Code and 27 of the Arms Act, 1959.

5. The allegation against the petitioner no. 1 and others, is of assault on the informant, his father, mother and cousin brother by *lathi*, *danda* and bricks resulting in injuries to them.

6. Learned counsel for the petitioner no. 1 submitted that the allegation is general and omnibus and admittedly there was land dispute between the parties. Learned counsel submitted that there is no specific allegation against any of the accused and even the injury reports disclose that the same were simple in nature. Learned counsel further submitted that the petitioner has also filed Complaint Case No. 245(C) of 2019 against the informant and other family members under Sections 147/148/307/341/379/323/384/447/504/506 of the Indian Penal Code. It was submitted that there is no allegation of firing and, thus, no case is made out under the Arms Act.

7. Learned APP, from the case diary, submitted that



the allegation is specific of assault by all the accused and in support thereof, the injury report discloses multiple injuries on all the injured persons on the body, though caused by hard blunt substance, as has also been alleged in the FIR itself. It was submitted that when a mob comes and attacks, it is not expected that the informant would identify each and every blow on each and every part against each and every specific person as he is not in a position to minutely observe as to which blow of which accused hit on which person and on which part. It was submitted that under such circumstances when more than a few persons jointly attack, but obviously, the allegation can only be that all of them had assaulted and it is only during investigation that details would come and moreover, the FIR is lodged only for initiation of investigation into the matter and it is not a complete description of the incident, which obviously has to be gone into by the investigating agency. Learned counsel submitted that the petitioner no. 1 has antecedent of criminal case under similar sections and, thus, it is clear that he is in the habit of indulging in such activity and does not deserve the privilege of pre-arrest bail. Learned counsel submitted that though the petitioner no. 1 is said to have filed complaint case but there is neither any mentioning in the pleadings as to what injury was sustained by



them or even the injury reports annexed, more so, when the present application has been filed by the petitioners themselves. It was also submitted that even otherwise the allegations are under grave sections, including Section 307 of the Indian Penal Code, and no police case being instituted, it raises doubts with regard to the authenticity of the complaint case; however, it was submitted that the same would be gone into by the Court before which it is pending. Learned counsel submitted that the petitioner no. 1, with regard to whom the application is limited, is the main person who is said to have started the incident, as he is alleged to have come to the house of the informant and had called the others and the incident occurred.

8. Learned counsel for the informant submitted that the injuries found on the victims are all over the body including the head and further that the father and mother of the informant on whom also there are multiple injuries on the body are aged over 70 years, which indicates the brutality of the assailants, especially petitioner no. 1, who was the main instigator and had come and called the others leading to the incident.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to petitioner no. 1.



10. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

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