

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78700 of 2019

Arising Out of PS Case No.-113 Year-2019 Thana- BELA District- Sitamarhi

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1. Nagendra Rai (male), aged about 55 years, Son of Ram Swaroop Rai.
 2. Ram Vishwas Rai @ Ram Pravesh Rai (Male), aged about 32 years, Son of Nagendra Rai.
Both resident of Village- Bathuaara, P.S.- Bela, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pushpendra Kumar Singh, Advocate
For the State	:	Mr. Chandra Sen Prasad Singh, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 23-09-2020

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

2. Heard Mr. Pushpendra Kumar Singh, learned counsel for the petitioners and Mr. Chandra Sen Prasad Singh, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Bela PS Case No. 113 of 2019 dated 13.05.2019, instituted under Sections 147, 149, 341, 323, 324, 325, 307, 379, 354, 504 and 506 of the Indian Penal Code.



4. The allegation against the petitioners and three others is of assaulting the informant and his daughter-in-law and also of trying to outrage her modesty and snatching of gold *mangalsutra* from her neck.

5. Learned counsel for the petitioners submitted that the petitioner no. 1 and informant are full brothers and there is land dispute between them. It was submitted that the FIR itself is not fit to be believed for the reason that the informant has stated that after the petitioner no. 1 had given *farsa* blow on his head, he had fallen on the ground and had become unconscious and, thus, he could not have seen what he had narrated in the FIR about the incident and the assault made by others after he had become unconscious. Learned counsel submitted that the FIR itself has been lodged after three days of the incident i.e., on 03.05.2019, whereas the allegation is that the incident occurred on 29.04.2019. Learned counsel submitted that in the restatement, the informant has modified his version by taking the name of the petitioner no. 2, which was not there in the original FIR, by stating that Ram Pravesh Rai's name had wrongly been taken and instead it was the petitioner Ram Vishwas Rai. Learned counsel submitted that the hospital in which the statement was taken and the injury report prepared, being a private institution, cannot be relied upon as the



informant and his daughter-in-law have not gone to any Government hospital so that the injury report and the treatment can be verified from the official records. Learned counsel submitted that the petitioners have no criminal antecedent and petitioner no. 2 is a student.

6. Learned APP, from the case diary, submitted that even looking at it from the point of the natural course and behaviour of a person, it is clear that grievous injuries being inflicted on the informant, i.e., two cut wounds on the head and bones of both the hands being fractured, could not be inflicted alone by petitioner no. 1 and at least, there is unanimity that prior to the assault, all the accused, including the petitioners, had come to the informant's house armed and had threatened him and had started assaulting him. Learned counsel submitted that in the restatement, the informant has only clarified the version as it is equally humanly believable that the sequence stated in the FIR that immediately after the first blow, he become unconscious may have been stated loosely, and after falling down also he had witnessed further assault on him and his daughter-in-law before finally losing consciousness. Learned counsel submitted that even otherwise in the restatement, the informant himself given a clean chit to one of the named accused in the FIR, shows that he did not want to



falsely implicate anybody and that it was the petitioner no. 2, who was the perpetrator of such overt act instead of Ram Pravesh Rai whose name was wrongly mentioned in the FIR by the informant initially. Learned counsel submitted that even otherwise, the informant being the full brother of petitioner no. 1, would not falsely state anything besides what actually happened and most importantly, there being multiple grievous injuries on the person of the informant as also cut injury on the head of the daughter-in-law, which was grievous, the allegations cannot be brushed aside.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant anticipatory bail to the petitioners.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

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