

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 15105 of 2021

Arising Out of PS. Case No.-01 Year-2019 Thana- NAUTAN (Jagdishpur) District-West
Champaran

- =====
1. Shambhu Sah, male, aged about 47 years, son of Late Mahanth Sah @ Mohan Sah
 2. Yogendra Sah @ Yogendra Prasad, male, aged about 37 years, son of Late Mahanth Sah @ Mohan Sah
 3. Krishna Prasad @ Krishna Kumar, male, aged about 22 years, son of Yogendra Sah @ Yogendra Prasad
 4. Geeta Devi, female aged about 42 years, wife of Shambhu Sah
 5. Pratima Devi, female, aged about 32 years, wife of Yogendra Sah @ Yogendra Prasad

All resident of Village-Dhumnagar, Purvi Tola, Police Station-Nautan,
District-West Champaran at Bettiha.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar, Advocate
For the State : Mr. Choubey Jawahar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 10-06-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners yesterday, which was allowed.

3. Heard Mr. Shashank Shekhar, learned counsel for the petitioners and Mr. Choubey Jawahar, learned Additional



Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. Learned counsel for the petitioners submitted that he may be permitted to withdraw the application on behalf of petitioner no. 1 as he has been arrested.

5. In view thereof, as prayed for by learned counsel for the petitioners, the application on behalf of petitioner no. 1, namely Shambhu Sah stands disposed off as withdrawn and is limited to petitioners no. 2, 3, 4 and 5, namely Yogendra Sah @ Yogendra Prasad, Krishna Prasad @ Krishna Kumar, Geeta Devi and Pratima Devi respectively.

6. The petitioners apprehend arrest in connection with Nautan (Jagdishpur) PS Case No. 1 of 2019 dated 02.01.2020, instituted under Sections 341/323/324/307/379/354B/504/34 of the Indian Penal Code.

7. The allegation against the petitioners is that they were variously armed and had assaulted the informant due to previous land dispute and specifically against petitioner no. 2 is that he assaulted by *farsa* on the head of the wife of the informant Vidyawati Devi and petitioner no. 3 assaulted Indu Devi, who is the daughter-in-law of the informant, with *barchhi* on the head and against petitioners no. 4 and 5, that they



dragged the daughter of the informant by holding her hair and had assaulted with fists and legs and also snatched gold chain from her neck.

8. Learned counsel for the petitioners submitted that the parties are agnates and there is old dispute pending between them relating to land. It was submitted that the whole family has been made accused for taking revenge, inasmuch as, earlier the petitioner no. 1 had filed Nautan PS Case No. 60 of 2013 in which the informant, his son and brother were convicted under Sections 302/34 and 120B of the Indian Penal Code and sentenced to life imprisonment and fine of Rs. 5,000/- and as a retaliatory measure the present case has been lodged. It was submitted that even as per the injury report attributed to petitioners no. 2 and 3, though there is lacerated wound on the head but it is simple in nature and caused by hard blunt substance which disproves the attack by *farsa* and *barchhi*. Learned counsel submitted that there was only a single blow which would also indicate, even if it is taken for the sake of argument, that the petitioners no. 2 and 3 did attack, that it was not with the intention of causing any serious damage, much less, kill the victim. Learned counsel submitted that there is also a counter case of the same incident in which the petitioner side



has also received injuries. It was submitted that the petitioners no. 3, 4 and 5 have got clean antecedent and against petitioner no. 2 there is case of the year 2012, which was filed by the son of the informant in which he is on bail by the Competent Court. Learned counsel submitted that petitioner no. 1 had also earlier filed Nautan PS Case No. 106 of 2013 against the wife of the informant and the petitioner no. 2 had filed Bettiah Muffasil PS Case No. 381 of 2013 against the present informant and both the cases are still pending before the Court below. Learned counsel submitted that the falsity of the case would also be established from the fact that Ranjan Kumar and Chansi Kumar, both sons of petitioner no. 1, who were also accused in the present case; Ranjan Kumar had produced evidence of his presence at Gwalior at the relevant time which was the CCTV footage of the ATM at Gwalior and accused Chansi Kumar was pursuing his studies in Patna.

9. Learned APP submitted that there was assault by the petitioners. However, the injury reports not corroborating the version in the FIR, was not controverted, especially in view of the same having been brought on record by way of Annexure-3 series to the present application.

10. 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. 2, 3, 4 and 5, namely Yogendra Sah @ Yogendra Prasad, Krishna Prasad @ Krishna Kumar, Geeta Devi and Pratima Devi respectively 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, Bettiah, West Champaran in Nautan (Jagdishpur) PS Case No. 01 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 no. 2 to 5, (ii) that the petitioners no. 2 to 5 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners no. 2 to 5, and (iii) that the petitioners no. 2 to 5 shall co-operate with the Court/police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation would lead to cancellation of their bail bonds.

11. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners no. 2 to 5 to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of



hearing to the petitioners no. 2 to 5.

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

(Ahsanuddin Amanullah, J)

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