

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16761 of 2021**

Arising Out of PS. Case No.-574 Year-2020 Thana- MADHEPURA District- Madhepura

1. Mishrilal Yadav, aged about 52 years, Male Son of Agamlal Yadav.
2. Shiv Chandar Yadav @ Shivchandra Kumar, age 28 years, Male, Son of Mishrilal Yadav.

Both are resident of Village - Manikpur, PS- Madhepura (Bharrahi OP),
District – Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nafisuzzoha, Advocate
For the State	:	Mr. Zainul Abedin, APP

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

Date : 06-09-2021

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, which was allowed.

3. Heard Mr. Nafisuzzoha, learned counsel for the petitioners and Mr. Zainul Abedin, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.



4. Learned counsel for the petitioners undertakes to e file the petition supported by affidavit during the course of the day.

5. Let the same be done.

6. The petitioners apprehend arrest in connection with Madhepura (Bharrahi OP) PS Case No. 574 of 2020 dated 30.07.2020, instituted under Sections 341, 323, 307, 379, 504 and 506/34 of the Indian Penal Code.

7. Learned counsel for the petitioners submitted that petitioner no. 1 has been arrested and, thus, he may be permitted to withdraw the petition on his behalf.

8. In view thereof, the petition on behalf of petitioner no. 1, namely, Mishrilal Yadav stands disposed of as withdrawn and is restricted to petitioner no. 2, namely, Shiv Chandar Yadav @ Shivchandra Kumar.

9. The allegation against the petitioners is of assault on the informant and his mother and specifically against petitioner no. 2 is that he had caught hold of the hair of the informant's mother and thrown her on the ground and assaulted her with iron rod leading to injury on her head. There is also general and omnibus allegation of looting of gold chain worth Rs. 80,000/- and clothes worth Rs. 50,000/-.



10. Learned counsel for the petitioner no. 2 submitted that the parties are close agnates and Madhepura (Bharrahi OP) P S Case No. 575 of 2020 has been filed by the wife of petitioner no. 1 for the same incident on the same day. It was submitted that both the sides had sustained injuries from the fight. However, learned counsel submitted that the injury suffered by the mother of the informant, who is said to have been assaulted by petitioner no. 2 discloses that she has sustained only a lacerated injury on the left side of the skull and a bruise over the back of the chest and both are caused by hard blunt substance and further, CT scan of the brain did not show any injury. It was submitted that the petitioner no. 2 has no other criminal antecedent.

11. Learned APP submitted that the allegation of assault as also looting of various articles is against the petitioner no. 2. However, in view of copy of the injury report having been brought on record disclosing the same to be simple and the CT of the brain also not disclosing any injury, was not controverted.

12. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the parties being agnates and there being a counter case as also the injury on the mother of the informant, who is said to have been assaulted by petitioner no. 2, being simple in nature and the



petitioner no. 2, not having any other criminal antecedent, the Court is inclined to allow the prayer for pre-arrest bail.

13. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2, namely, Shiv Chandar Yadav @ Shivchandra Kumar be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Madhepura in Madhepura (Bharrahi OP) PS Case No. 574 of 2020, 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 petitioner no. 2, (ii) that the petitioner no. 2 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner no. 2 and (iii) that the petitioner no. 2 shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

14. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner no. 2, to the notice of the Court concerned, which shall take immediate action



on the same after giving opportunity of hearing to the petitioner
no. 2.

15. The petition stands disposed of in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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