

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM OFFICIAL CHAMBERS VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18016 of 2021**

Arising Out of PS. Case No.-429 Year-2020 Thana- MAKHDUMPUR District- Jehanabad

1. Praveen Sharma Son Of Late Lakhandev Sharma Resident Of Village-Kanauli, P.S. Makhdumpur, District- Jehanabad
2. Kanhaiya Sharma Son Of Shri Parmakant Sharma Resident Of Village-Dehuni, P.S.- Ghoshi, District- Jehanabad

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Thakur,Advocate Mr.Vaishnavi Singh,Advocate
For the State	:	Mr.Shailendra Kumar Singh,APP
For the Informant	:	Mr.Gajendra Kumar Singh,Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 01-10-2021 Heard learned counsel for the petitioners, learned counsel for the informant and Mr. Shailendra Kumar Singh, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with Makhdumpur (Tehta) P.S. Case No. 429 of 2020 registered for the offences punishable under Sections 147, 148, 149, 341, 342, 323, 325, 324, 326, 304 and 448 of the Indian Penal Code in which Section 304 IPC was wrongly mentioned which was later on corrected as Section 307 IPC. They are in custody since 06.01.2021. The petitioner no. 1 has got no criminal antecedent whereas petitioner no. 2 is said to have got one criminal antecedent in which he is on bail and the matter has been compromised as stated in paragraph '3' of the petition.



As per the prosecution story giving rise to the present FIR, one Ram Eqbal Sharma alleges that on 31.10.2020 when he was watching T.V. on the *dalan* of one Shiyaram Singh together with his other co-villagers, he heard some hulla whereupon he came out from the *dalan*, in the meantime co-villager Praveen Sharma (petitioner no. 1), his brother-in-law (petitioner no. 2) and with them about 15-20 boys who had covered their face by *gulmocha* and whom the informant could not identify attacked on the informant by iron rod and *pasuli* causing injury on his head, hand and right leg.

It is further alleged that when the informant fell down all the accused persons fled away showing their arms and they abused the informant at his door. While the informant was going to hospital also hindrances were created on way so that he may not reach the hospital in time.

Learned counsel for the petitioners submits that it is a case of over-implication of the accused which would be evident from the FIR itself wherein the informant has alleged that apart from these two petitioners, 15-20 other persons were there who had attacked upon him. If this part of the allegation is seen together with the injury report of the informant, it would be found that the informant has suffered only two injuries, one is a lacerated wound on scalp (1/2" x 1") which is simple in nature and another



is a swelling on the left ankle joint, in x'ray it has been later found to be grievous in nature.

It is his further submission that in the FIR there is no allegation that his son Rajnishkant was also assaulted but later on in course of investigation, it has come that the son of the informant, namely, Rajnishkant was also assaulted, had suffered four injuries out of which, injury nos. 1, 3 and 4 are simple in nature whereas injury no. 2 which are on right and left shoulders in respect of that opinion was reserved. In the morning there was a scuffle between the parties while ploughing the fields by tractor.

Learned counsel further submits that Annexure '2' is a copy of the deposition of one Ritu Kumari who has appeared as a witness in Complaint Case No. 362 of 2020 lodged by the petitioners' side in which she has deposed that Ram Eqbal, Anup and Rajnishkant had assembled at her house and they had assaulted the brother of the witness Ritu Kumari. It is the submission of learned counsel that apparently it is a case of land dispute between the parties and now the petitioners have remained in jail for about 10 months, investigation against them is complete and in the circumstances, the petitioners deserve privilege of bail.

Learned counsel for the informant as well as learned APP for the State have opposed the prayer for regular bail of the petitioners. Learned counsel for the informant submits that these



two petitioners were involved in the alleged occurrence, however, it is not denied that in the FIR, the allegation is that these two petitioners and 15-20 other persons had assaulted the informant.

Further learned counsel for the informant has claimed that the statement of Rajnishkant who is son of the informant has been recorded in paragraph '7' and re-statement of the informant is recorded in para '17' of the case diary. In his re-statement the informant says that on hulla when he came out he saw these petitioners and 10-12 persons were assaulting his son. Neither learned counsel for the informant nor learned APP for the State could claim that the informant and his son made specific and consistent allegations against these two petitioners. The allegations are general and omnibus and against 10-12 unidentified persons and these petitioners.

Considering the facts and circumstances of the case, the nature of allegations being general and omnibus and further that the alleged occurrence is said to be result of a land dispute, there is a counter version in the complaint case and the petitioners have remained in jail for 10 months, investigation against them is complete, this Court, therefore, directs release of the petitioners above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial



Magistrate, Jehanabad in connection with Makhdumpur (Tehta)
P.S. Case No. 429 of 2020, subject to the conditions as laid down
under Section 437(3) Cr.P.C.

And further condition that the court below shall verify
the criminal antecedent of the petitioners and in case at any stage it
is found that the petitioners have concealed their criminal
antecedent, the court below shall take step for cancellation of bail
bond of the petitioners. However, the acceptance of bail bonds in
terms of the above-mentioned order shall not be delayed for
purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

