

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20552 of 2021**

Arising Out of PS. Case No.-610 Year-2020 Thana- BRAHMPUR District- Buxar

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1. Shashi Prasad, aged about 23 (male), S/O Late Munna Prasad,
 2. Kamin Prasad @ Vivak Prasad, aged about 28 (Male), S/O Late Gupteshwar Prasad,
 3. Shashi Kant Prasad @ Shasi, aged about 25 (Male), S/O Radha Prasad,
 4. Suraj Prasad, aged about 30 (Male), S/O Achhay Lal Prasad,
 5. Pintu Prasad, aged about 25 (Male), S/O Ramai Prasad,
 6. Gorakh Prasad, aged about 30 (Male), S/O Vijay Prasad,
 7. Lachan Prasad, aged about 30 (Male), S/O Jiyawan Prasad.

All resident of village- Noniyapura, P.S- Barhampur (K.B), District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Roy, Advocate
For the State	:	Mr. Binod Kumar, APP

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

Date : 13-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Anil Kumar Roy, learned counsel for the petitioners and Mr. Binod Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Barhampur PS Case No. 610 of 2020 dated 18.11.2020 instituted under Sections 147, 148, 149, 341, 323, 324, 325, 307, 427, 504 of the Indian Penal Code.

4. The allegation against the petitioners is that when



the informant was involved in the immersion of goddess Laxmi, the petitioners along with others had come in a drunken state playing loud music and when they reached the house of the informant, they dashed their pickup van in his boundary and when the informant objected, they used abusive language and also assaulted him and specifically against the petitioner no. 1, the allegation is of assault on the informant by iron rod on the head, whereas, against the petitioner no. 2, it is of abuse and assault by *gandasa* and against others it is of general assault by lathi and *danda*.

5. Learned counsel for the petitioners submitted that the present case is in fact, a counter blast to the case lodged by the petitioner no. 2, which is Barhampur (KB) PS Case No. 608 of 2020, in which written complaint was given on 16.11.2020, i.e., the date of the incident, under Sections 147, 148, 149, 341, 325, 302, 504 of the Indian Penal Code in which the father of the petitioner no. 1 had died and then belatedly by way of counter blast the present case has been filed on the basis of statement recorded at 08.05 PM on 17.11.2020. It was submitted that in the case filed by the petitioner no. 2, it has been admitted that due to mistake the boundary wall of the present informant was damaged and that they had offered to repair it, but the



informant side was aggressive leading to death of the petitioner no. 1's father. Learned counsel submitted that the fact of there being injuries on the side of the petitioners' and death of father of the petitioner no. 1, was required to be explained in the present FIR, which has not been done. Learned counsel submitted that before the police only one injury report i.e., of the informant has been produced, which also does not disclose any major injury and he had been referred to PMCH, but the fact is that in the case filed by the petitioner no. 2, the present informant was arrested the very next day and from there he was sent to Quarantine Center at Bikramganj, which falsifies the allegation in the present case for the reason that had he been referred to PMCH, he would have been taken to such institution or some equivalent institution and he would not have been sent to Quarantine Center which does not have any medical facility, much less, specialized referral facility. It was submitted that except for petitioners no. 1 and 2, the other petitioners have no criminal antecedent.

6. Learned APP, from the case diary, submitted that only injury report of the informant has been produced before the police which discloses lacerated wound on the head and after CT scan the injury has been found to be simple in nature.



Further, it was submitted that in the counter case filed by the petitioners' side, father of petitioner no. 1 had been killed.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, it appears that the dispute started for an issue which occurred on the spur of the moment, inasmuch as, the wall of the informant was damaged by the vehicle from the petitioners' side due to which there was fight between the two sides and only the injury caused on the informant has been brought before the police which shows that it was simple in nature and there being a counter case from the side of the petitioners' also in which the father of petitioner no. 1 has died as also the fact that the petitioners no. 3, 4, 5, 6 and 7 have no other criminal antecedent and against the petitioners no. 1 and 2 there is one previous case under Section 353 of the Indian Penal Code, the Court is inclined to allow the prayer for pre-arrest bail.

8. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners 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, Buxar in Brahmpur PS Case No. 610 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 petitioners, (ii) that the petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners, and (iii) that the petitioners shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation shall lead to cancellation of their bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

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

(Ahsanuddin Amanullah, J)

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