

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 19546 of 2021

Arising Out of PS Case No.-15 Year-2017 Thana- CHAUSA District- Madhepura

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1. Kaleshwar Mandal, age about 55 years, Male, Son of Late Santlal Mandal.
 2. Dilip Mandal @ Dilip Kumar, aged about 30 years, Male, Son of Kaleshwar Mandal, Resident of Village- Sadhu Tola, Arajpur, Pashchimi Panchayat, PS- Chausa, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nafisuzzoha, Advocate
For the State	:	Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 05-07-2021

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 on 28.04.2021, which was allowed.

3. Heard Mr. Nafisuzzoha, learned counsel for the petitioners and Ms. Meena Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

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

5. In view thereof, the petition on behalf of petitioner no. 1, namely, Kaleshwar Mandal, stands disposed off as



withdrawn having become infructuous and is restricted to petitioner no. 2, namely, Dilip Mandal @ Dilip Kumar.

6. The petitioner no. 2 apprehends arrest in connection with Chausa PS Case No. 15 of 2017 dated 27.01.2017, instituted under Sections 341, 323, 307, 325, 354, 379, 380, 504 and 506 of the Indian Penal Code.

7. The allegation against the petitioner no. 2 is specific that he assaulted Bina Devi on the hand resulting in fracture in her wrist. It was further alleged that when she became senseless, a gold chain was also taken away. However, the rest of the allegation is against other co-accused.

8. Learned counsel for the petitioner no. 2 submitted that for the same incident, there is also a counter case and that the injury suffered by Bina Devi was because she had fallen on the ground and had herself fractured her wrist and not because of the assault by the petitioners. It was further submitted that the petitioner no. 2 has clean antecedent.

9. Learned APP submitted that against the petitioner no. 2, there is specific and direct allegation of assault on the hand of Bina Devi resulting in fracture of the wrist which is corroborated by the injury report. It is pointed out that as per the injury report, copy of which has been brought on record by way of Annexure-2,



it is clear that the opinion of the doctor is that the same is grievous in nature and caused by hard blunt substance. Thus, it was submitted that the injury was not self-inflicted due to fall, but due to the deliberate assault by the petitioners as specifically stated in the FIR and the same is grievous in nature.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to petitioner no. 2, namely, Dilip Mandal @ Dilip Kumar.

11. Accordingly, the petition stands dismissed.

12. However, in view of submission of learned counsel for the petitioner no. 2, it is observed that if the petitioner no. 2 appears before the Court below and prays for bail, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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