

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26935 of 2020

Arising Out of PS. Case No.-125 Year-2019 Thana- JAMALPUR District- Darbhanga

1. SHAMBHU JHA @ SHAMBHU KUMAR JHA S/o Pramod Jha Resident of Village-Hasopur, P.S-Jamalpur (Bargaon OP), District-Darbhangha.
2. Radhey Shyam Jha S/o Ashok Jha Resident of Village-Hasopur, P.S-Jamalpur (Bargaon OP), District-Darbhangha.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Baidya Nath Thakur, Advocate
For the State	:	Mr.Yogendra Kumar, APP
For the Informant	:	Mr.Nishant Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 06-01-2021 Heard learned counsel for the petitioners, learned counsel
for the informant and learned APP for the State.

The petitioners in the present case are seeking pre-arrest bail in connection with Jamalpur (Bargaon OP) P.S. Case No. 125 of 2019 registered for the offences punishable under Sections 341, 323, 325, 307, 504, 506/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that according to the FIR petitioner no. 1 had caught hold of the informant whereas co-accused Pramod Jha which is not before this Court had assaulted him on his head by a revolver. So far as petitioner no. 2 is concerned, it is alleged that he along with co-accused Ashok Jha were armed with stick and iron rod and assaulted him. Learned counsel submits that on a bare perusal of the First Information Report, it would appear that it is a case of over-implication of the petitioner. The injury



report of the informant (Annexure '3') would show one injury on the head which has been caused by hard and blunt substance and found to be grievous in nature. The said injury has been specifically attributed to co-accused Pramod Jha.

Learned counsel further submits that so far as the allegation against petitioner no. 2 is concerned, there is general allegation that he along with co-accused Ashok Jha had assaulted by stick and iron rod, the doctor has found left forearm blackening and nasal bleeding but the injuries have not been specifically attributed to petitioner no. 2. So far as petitioner no. 1 is concerned, in his submission he has been falsely implicated in this case.

It is further pointed out that there is a counter case lodged from the petitioners' side and from the counter case it would appear that it was the first case and in course of investigation even witnesses have stated that both the parties had indulged in the quarrel and had assaulted each other. From the petitioners' side also three persons have sustained injuries and in fact the injury on the body of the Pramod Jha is grievous in nature.

Learned counsel for the informant has opposed the prayer for pre-arrest bail of the petitioners as according to him the petitioners had also indulged in the alleged occurrence.

Learned APP for the State has gone through the case diary and submitted that in course of investigation it has come that both the parties had indulged in the alleged occurrence.



Having regard to the facts and circumstances of the case, there is a case and counter case between the parties and so far as petitioner no. 1 is concerned, he has been implicated saying that he caught hold of the informant and petitioner no. 2 had allegedly assaulted along with other co-accused but there is no specific injury attributed to him, in the nature of the dispute between the parties and materials showing injuries caused to the petitioners' side as well, let in case of their arrest or surrender the petitioners above-named within a period of four weeks from today in connection with Jamalpur (Bargaon OP) P.S. Case No. 125 of 2019 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Biraul, Darbhanga, subject to the condition as laid down under Section 438(2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

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 bonds 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.

Case diary has been returned and let it be kept on the record.

(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'.

