

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23381 of 2020

Arising Out of PS. Case No.-331 Year-2019 Thana- HUSSAINGANJ District- Siwan

1. Vishal Yadav @ Vishal Kumar Yadav [M] aged about 20 years, S/o Shivashanker Yadav @ Shivshanker Chaudhari
2. Kishun Yadav [M] aged about 55 years, S/o Late Meghnath Yadav
3. Birendra Yadav @ Birendra Chaudhari [M] aged about 40 years,
4. Shivshanker Yadav @ Shivshanker Chaudhari [M] aged about 47 years,
5. Chathu Yadav [M] aged about 45 years,
All sons of Kanhaiya Yadav
6. Santosh Yadav @ Santosh Chaudhari [M] aged about 42 years,
7. Ravindra Yadav [M] aged about 25 years,
Both sons of Ramae Yadav
All are Resident of Village- Harihans, P.S.- Hussainganj, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Aprajita, Advocate
For the State	:	Mr. Sanjay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 04-09-2021

The matter has been heard *via* video conferencing.

2. Heard Ms. Aprajita, learned counsel for the petitioners and Mr. Sanjay Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Hussainganj PS Case No. 331 of 2019 dated 25.12.2019, instituted under Sections 147/341/323/379/307/504/506/324 of the Indian Penal Code.



4. The allegation against the petitioners, along with four others, is of being variously armed and having attacked the informant and others and specifically against the petitioner no. 1 is that he had assaulted Shailendra Yadav by *lathi*; against petitioner no. 2 is that he was a member of the mob; against petitioner no. 3 is that he had assaulted Anil Yadav on the head by axe and on the cheek by *bhala* and on Surendra Yadav by axe; against petitioner no. 4 that he had held from behind Surendra Yadav; against petitioner no. 5 that he had attacked Prahalad Yadav by axe; against petitioner no. 6 that he had assaulted Vidyanath Yadav and Amarnath Yadav by axe whereas against petitioner no. 7 that he had assaulted Prahlad Yadav by *lathi*.

5. Learned counsel for the petitioners submitted that the allegations are general and vague and for the same incident there is also a counter case filed by Layeichi Devi, wife of petitioner no. 2, being Hussainganj PS Case No. 332 of 2019. It was submitted that the genesis of the incident has not been truly stated in the present FIR and the fact is that the drainage was being constructed on government land to which the informant had objected and there was scuffle between the parties and both sides have sustained injuries and since it was being made in



front of the land of the petitioners, they wanted the construction to proceed. Learned counsel submitted that the injuries are simple in nature and three other accused persons, namely Jaggu Yadav, Guddu Yadav and Abhishek Yadav have been granted bail by the Court below, though they are alleged to have caused grievous injuries. Summing up her arguments, learned counsel submitted that the petitioners have no other criminal antecedent.

6. Learned APP, from the case diary, submitted that the injuries caused by petitioners no. 1, 3, 4, 5 and 7 are simple in nature; however, with regard to petitioner no. 6 the same has caused fracture of skull and the allegation in the FIR of attack by axe is corroborated where the cause of injuries is sharp cutting weapon. However, learned APP did not controvert the fact that against petitioner no. 2 there is no specific allegation of any overt act.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, taking note of the fact that for the same incident there is also a counter case and basically the dispute seems to have arisen on the spur of the moment and there being injuries on both the sides and also the injuries attributed to the petitioners, except for petitioner no. 6, being simple in nature as also the statement in



the petition that the petitioners have no other criminal antecedent, the Court is inclined to allow the prayer for pre-arrest bail with regard to petitioners no. 1 to 5 and 7.

8. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners no. 1, 2, 3, 4, 5 and 7, namely, Vishal Yadav @ Vishal Kumar Yadav; Kishun Yadav; Birendra Yadav @ Birendra Chaudhari; Shivshnker Yadav @ Shivshnker Chaudhari; Chathu Yadav and Ravindra Yadav, respectively 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, Siwan in Hussainganj PS Case No. 331 of 2019, 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 no. 1, 2, 3, 4, 5 and 7, (ii) that the petitioners no. 1, 2, 3, 4, 5 and 7 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners no. 1, 2, 3, 4, 5 and 7, and (iii) that the petitioners no. 1, 2, 3, 4, 5 and 7 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 by the petitioners no. 1, 2, 3, 4, 5 and 7, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners no. 1, 2, 3, 4, 5 and 7.

10. Prayer for pre-arrest bail of petitioner no. 6, namely, Santosh Yadav @ Santosh Chaudhari, stands rejected.

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

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

