

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 32854 of 2020

Arising Out of PS. Case No.-165 Year-2020 Thana- BAJPATTI District-Sitamarhi

- =====
1. Ram Narayan Rai, aged about 50 years, (Male), Son of Mauje Rai, R/O Village - Bishwanathpur, P.S. - Dumra, District - Sitamarhi.
 2. Mithilesh Kumar, aged about 42 years (Male), Son of Shyam Bihari Rai, R/O Village - Basaha, P.S. - Bajpatti, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N K Agarwal, Senior Advocate with Mr. Ashok Kumar Jha, Advocate
For the State	:	Mr. Mukeshwar Dayal, APP
For the Informant	:	Ms. Soni Srivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 25-06-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. N K Agarwal, learned senior counsel along with Mr. Ashok Kumar Jha, learned counsel for the petitioners; Mr. Mukeshwar Dayal, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Ms. Soni Srivastava, learned counsel for the informant.

3. The petitioners apprehend arrest in connection with Bajpatti PS Case No. 165 of 2020 dated 10.05.2020, instituted under Sections 341/323/307/379/504/506/34 of the Indian Penal Code.

4. The allegation against the petitioners, as per the FIR, is that they had threatened the informant with dire



consequences after assaulting him and specifically against petitioner no. 1, that he had put a pistol on the temple of the informant threatening him not to depose in the case filed by the sister-in-law of the petitioner no. 2 and against petitioner no. 2 it is specific that he had snatched gold chain worth Rs. 12,000/- and cash of Rs. 2,000/- from the pocket of the informant.

5. Learned counsel for the petitioners submitted that the allegation is false and fabricated and there is family dispute between the parties as earlier also the sister-in-law (*bhabhi*) of petitioner no. 2 had lodged case which is pending and the present case has also been lodged by the informant who is an employee of the sister-in-law of petitioner no. 2. It was submitted that though the petitioner no. 1 has no criminal antecedent, but inadvertently in the main petition, with regard to petitioner no. 2 also, it had been stated that he has no criminal antecedent, but the same was a *bona fide* mistake as the cousin brother-in-law of the petitioner no. 2 had affirmed affidavit and he was not aware of the pendency and thus, supplementary affidavit has been filed bringing on record that the petitioner no. 2 has one case in which he is an accused, whereas in another case, though cognizance has not been taken against him but protest petition has been filed by his sister-in-law to make him



an accused. Learned counsel submitted that even as per the FIR the petitioner no. 1 is said to have put pistol on the temple of the informant and petitioner no. 2 having snatched gold chain worth Rs. 12,000/- and cash of Rs. 2,000/- but the same are cosmetic, especially in the background of the fact that there is family dispute and the informant is an employee of the *bhabhi* of petitioner no. 2.

6. Learned APP submitted that the allegation against the petitioners is what has been stated by learned counsel for the petitioners. However, it was submitted that in the re-statement the informant has stated that the petitioner no. 1 had also hit him on the teeth by the butt of the gun.

7. Learned counsel for the informant submitted that the conduct of the petitioners in suppressing their criminal antecedents is a serious matter. Further, on merits, it was submitted that the informant was a witness in the case filed by the *bhabhi* of petitioner no. 2 and thus, the allegation is clearly not fabricated for the reason that the petitioners wanted to make sure that no witnesses deposed against them in the trial so as to save themselves from any adverse consequences of their conduct for which the trial is going on. Further, learned counsel submitted that though the petitioner no. 1 may not be accused in



the FIR or in the police records in Bajpatti PS Case No. 145 of 2020 but he had surrendered before the Court in the said case on the basis of his name having come in the re-statement of the informant and has also been granted bail and thus, he was required to bring the fact on record which has not been done even in the supplementary affidavit.

8. On response from learned counsel for the petitioners, it was stated that due to wrong advice that the petitioner no. 1 had surrendered and taken bail for the reason that neither he is named in the FIR nor he has been subsequently made an accused by the police. Furthermore, it was submitted that this fact could not be stated due to some erroneous conception that since the petitioner no. 1 was not accused in the case till date, he was not required to mention that fact.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, 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 S.D.J.M., Pupri at Sitamarhi in Bajpatti PS Case No. 165 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 with regard to good behaviour of the petitioners, (iii) that the petitioners shall also give an undertaking to the Court that they shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses and (iv) that the petitioners shall cooperate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of their bail bonds.

10. 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.

11. The application stands disposed off in the aforementioned terms.

Ahsanuddin Amanullah, J)

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