

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34690 of 2020

Arising Out of PS. Case No.-577 Year-2019 Thana- MAHUA District- Vaishali

1. Vinod Kumar Rai @ Binod Rai, aged about 37 years, Male, S/o Shri Birju Rai,
2. Mithilesh Rai @ Mithilesh Kumar Rai, Male, aged about 26 years, S/o Shri Harendra Rai,
Both resident of village- Govindpur, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioners and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Mahua PS Case No. 577 of 2019 dated 09.10.2019, instituted under Sections 341, 323, 325, 307, 302/34 of the Indian Penal Code.

4. The allegation against the petitioners and others is of assault on the elder brother of the informant and thereafter his



father, resulting in serious injuries to the brother and death of the father besides assault on other family members also, who had gone to rescue them.

5. Learned counsel for the petitioners submitted that the present case has been lodged only to save the informant's side from the adverse effect of Mahua PS Case No. 622 of 2019 for an incident which happened on the same day in which the petitioners' side was attacked by the informant and others. It was submitted that injuries have been sustained by the petitioners' side also. Learned counsel submitted that earlier Tisiauta PS Case No. 16 of 2019 had been filed in which the informant and his brother were accused of kidnapping the daughter of Devendra Rai, who is a family member of the petitioners. Learned counsel submitted that the informant's side was pressurizing the petitioners' side for compromising the case and on refusal, they had again committed criminal offence for which another case was also lodged. Learned counsel submitted that the informant resides in another village and the petitioners belong to another village and, thus, very presence of the petitioners at the place of occurrence is doubtful and most importantly, the sequence of events have not been correctly stated in the FIR in the present case as during investigation it



has come that there are two places where the incident occurred; firstly, the house of one Kameshwar Singh where elder brother of the informant went and from where he was dragged by the accused and thereafter the father was also assaulted at a different place slightly away from the first place where the elder brother of the informant was assaulted. It was submitted that the said fact not being stated by the informant indicates that he was not a witness to the incident, otherwise, correct facts would have been narrated in the FIR, which has not been done. Learned counsel submitted that the accused are closely related to each other and that is why they have been falsely implicated for an incident for which they were not responsible. Learned counsel submitted that the petitioners have no other criminal antecedent.

6. Learned APP, from the case diary, submitted that the elder brother of the informant has sustained injury all over his body and the father has succumbed to the injuries and the postmortem report also shows that there were multiple injuries on the body and there was haematoma in the brain. Learned APP contended that there was no reason for the informant to only implicate the petitioners and others at the cost of leaving the real culprits, who were responsible for brutal assault on his elder brother and death of his father. It was submitted that in view of



the specific allegation that the petitioners were assaulting the elder brother and when the father tried to intervene, he was also assaulted, which is also borne out by the injury reports and the postmortem report, at this stage, the Court may not go into the defence of the petitioners with regard to finer details of apportioning responsibility. It was submitted that in view of the injuries on the body of elder brother of the informant as well as the deceased, which are multiple in nature, the allegation against the petitioners and others of having jointly assaulted, stands proved.

7. 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 the petitioners.

8. Accordingly, the petition stands dismissed.

9. Interim protection given to the petitioners under order dated 29.04.2021 stands vacated.

(Ahsanuddin Amanullah, J)

J. Alam/-

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