

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34688 of 2020

Arising Out of PS. Case No.-127 Year-2019 Thana- Civil Line District- Gaya

1. Shambhu Yadav, aged about 40 years, Gender-Male, son of Yamuna Pahalwan, resident of Mohalla - Badki Delha, Paraiya Road, P.S.- Delha, District - Gaya.
2. Shahzad Alam, aged about 38 years, Gender-Male, son of Yakub Alam, resident of Chhata Masjid, P.S.- Kotwali, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 29-04-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Mrigendra Kumar, 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 Civil Lines PS Case No. 127 of 2019 dated 15.03.2019, instituted under Sections 323, 341, 325, 504, 506, 384, 379/34 of the Indian Penal Code.

4. The allegation against the petitioners is that they had assaulted the informant and his son and specifically against petitioner no. 1, of inflicting blow by butt of pistol on the hand



resulting in cut on the finger and against the petitioner no. 2, of snatching Rs. 11,400/- and mobile from the pocket of the informant and gold chain from the neck of the son of the informant.

5. Learned counsel for the petitioners submitted that the prayer for anticipatory bail of petitioner no. 1 was rejected by the Court below only on the ground that he had not mentioned about his criminal antecedent, that he was accused in two other cases also. It was submitted that as far as petitioner no. 2 is concerned, he has no criminal antecedent. Learned counsel submitted that even on merits, it was a simple case of some accident with the motorcycle and out of raise, this false case has been registered as petitioner no. 1 is living in the same locality and petitioner no. 2, being a friend was accompanying petitioner no. 1. Learned counsel submitted that even as per the allegation, it is unbelievable that a person who had gone to a marriage and was returning, would be carrying Rs. 11,400/- cash in his pocket as he had no reason to do while coming back from the marriage and even if he was carrying some money for being given as gift in the marriage, he would already have given that and would not be returning with so much of cash at midnight. It was thus submitted that as far as



petitioner no. 2 is concerned, the allegation is totally cosmetic and super-addition and unbelievable and also impractical.

6. Learned APP submitted that as far as petitioner no. 1 is concerned, he has two other cases under serious sections of the Indian Penal Code against him including the Arms Act and thus is a veteran criminal and further that a person of the same locality would not make somebody accused of the same locality without there being strong reason for that.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner no. 2, namely Shahzad Alam, in the event of arrest or surrender before the Court below within six weeks from today, be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya in connection with Civil Lines PS Case No. 127 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 petitioner no. 2, (ii) that the petitioner no. 2 and the bailors shall execute bond/give undertaking with regard to good behaviour of the petitioner no. 2 and he shall co-operate with



the police/prosecution and the Court. Any violation of the terms and conditions of the bonds or the undertaking and failure to co-operate shall lead to cancellation of his bail bonds.

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner no. 2, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner no. 2.

9. The prayer for pre-arrest bail of petitioner no. 1, namely Shambhu Yadav, stands rejected.

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

(Ahsanuddin Amanullah, J.)

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