

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 35549 of 2020

Arising Out of PS Case No.-116 Year-2020 Thana- MANJHAGADH District- Gopalganj

1. Munna Mahto @ Munna Chauhan, aged about 34 years, Gender-Male, Son of Baliram Mahto @ Baliram Chauhan.
 2. Tunna Mahto, aged about 25 years, Gender-Male, Son of Baliram Mahto @ Baliram Chauhan.
 3. Oshihar Mahto, aged about 18 years, Gender-Male, Son of Naresh Mahto.
 4. Sahodara Devi, aged about 52 years, Gender- Female Wife of Baliram Mahto @ Baliram Chauhan.
 5. Sandhya Devi, aged about 40 years, Gender-Female, Wife of Naresh Mahto.
- All are residence of - Sareya Akhtiyar, PS - Manjhagadh, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 21-06-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Binay Kumar, 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 Manjhagadh PS Case No. 116 of 2020 dated 03.06.2020, instituted under Sections 341, 323, 307, 504, 506/34 and 302 of the Indian Penal Code.



4. The allegation against the petitioners is of assault on the informant and his family members.

5. Learned counsel for the petitioners submitted that the specific overt act alleged is against other co-accused and not the petitioners and with regard to petitioner no. 1, there is an allegation that he had assaulted on the head of the informant. Learned counsel submitted that the allegation is general and omnibus against the other petitioners and that they have no criminal antecedent. Learned counsel submitted that the FIR has been lodged after three days for which there is no explanation. It was submitted that though one person has also died, but even the assault on her is attributed to another co-accused. It was submitted that in the FIR itself, it has been stated that there was land dispute for which there was Section 144 of the Code of Criminal Procedure, 1973 promulgated and it is alleged that the accused were trying to erect some structure over the said land. Learned counsel submitted that the Court may, at least, consider the prayer sympathetically with regard to petitioners no. 2 to 5, since against them the allegation is general and omnibus.

6. Learned APP submitted that the petitioners are also said to have assaulted the victims. However, it was not controverted that against petitioners no. 2 to 5, the allegation is



general and omnibus and only against petitioner no. 1, it is specific of having assaulted on the head of the informant which has also been corroborated in the injury report, as has been noticed by the learned Additional District and Sessions Judge, V, Gopalganj in Anticipatory Bail Petition No. 1004 of 2020 dated 09.09.2020 by which prayer for anticipatory bail of the petitioners has been rejected.

7. 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, petitioner no. 2 namely, Tunna Mahto; petitioner no. 3 namely, Oshihar Mahto; petitioner no. 4 namely, Sahodara Devi and petitioner no. 5 namely, Sandhya Devi, 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, Gopalganj in Manjhagadh PS Case No. 116 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 said petitioners, (ii) that the said petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the said petitioners and that the said



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

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the said petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the concerned petitioners.

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

10. The prayer for pre-arrest bail of petitioner no. 1 namely, Munna Mahto @ Munna Chauhan, stands rejected.

(Ahsanuddin Amanullah, J.)

P. Kumar

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