

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37155 of 2020

Arising Out of PS. Case No.-449 Year-2020 Thana- BANKA District- Banka

1. Dharmendra Sharma (Male), aged about 22 years, son of Janardhan Sharma @ Janardan Sharma, resident of Harpur, P.O.- Kakwara, P.S.- Banka, Distt-Banka.
2. Sachindra Sharma, (Male), aged about 25 years, son of Janardhan Sharma @ Janardan Sharma, resident of Harpur, P.O.- Kakwara, P.S.- Banka, District-Banka.
3. Kabir Sharma (Male), aged about 27 years, son of Janardhan Sharma @ Janardan Sharma, resident of Harpur, P.O.- Kakwara, P.S.- Banka, District-Banka.
4. Janardhan Sharma @ Janardan Sharma, (Male), aged about 74 years, son of late Harihar Sharma, resident of Harpur, P.O.- Kakwara, P.S.- Banka, District- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the State	:	Ms. Asha Devi, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Arun Kumar, learned counsel for the petitioners and Ms. Asha Devi, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. Learned counsel for the petitioners submitted that petitioner no. 2 namely, Sachindra Sharma has been arrested and thus, his prayer for pre-arrest bail has become infructuous and he may be permitted to withdraw the application on behalf of



the petitioner no. 2.

4. In view thereof, as prayed for by learned counsel for the petitioners, the petition on behalf of the petitioner no. 2 namely, Sachindra Sharma, stands disposed off as withdrawn and is restricted to petitioners no. 1, 3 and 4 namely, Dharmendra Sharma; Kabir Sharma and Janardhan Sharma @ Janardan Sharma, respectively.

5. The petitioners no. 1, 3 and 4 apprehend arrest in connection with Banka PS Case No. 449 of 2020 dated 09.06.2020, instituted under Sections 323, 324, 307, 504, 506/34 of the Indian Penal Code.

6. The allegation against the petitioners is that they were armed with *lathi* and *gandasa* and had assaulted the informant and her mother.

7. Learned counsel for the petitioners submitted that they are agnates and the dispute was with regard to a common lane between the house of the two sides. It was further submitted that the incident has been blown out of proportion. Learned counsel submitted that the petitioners no. 1, 3 and 4 are carpenters and petitioner nos. 1 and 3 do not live in the village and in fact are earning their livelihood in Patna and were not present on the day of occurrence whereas the entire family has



been made accused. Learned counsel drew the attention of the Court to the injury report of the informant which reveals lacerated wound on the parietal region and pain in the right foot and the same are said to have been caused by hard and blunt substance and are simple in nature and thus, the prosecution story in the FIR is not corroborated. It was submitted that the petitioners no. 1, 3 and 4 have no criminal antecedent.

8. Learned APP submitted that the petitioners had assaulted the informant and her mother.

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 no. 1, 3 and 4, namely, Dharmendra Sharma; Kabir Sharma and Janardhan Sharma @ Janardan Sharma, 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, Banka, in Banka PS Case No. 449 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 no. 1, 3 and 4, (ii) that the petitioners no. 1, 3 and 4



and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners no. 1, 3 and 4, and (iii) that the petitioners no. 1, 3 and 4 shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or 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 no. 1, 3 and 4, 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, 3 and 4.

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

(Ahsanuddin Amanullah, J)

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