

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 51618 of 2021

Arising Out of PS. Case No.-129 Year-2021 Thana- DORIGANJ District- Saran

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1. Bihari Rai, Male, aged near about 65 years, Son of Triveni Rai.
 2. Suresh Rai @ Tinku Rai, Male, aged near about 43 years, Son of Bihari Rai.
 3. Pramod Kumar, Male, aged near about 27 years, Son of Bihari Rai.
 4. Bikram Kumar, Male, aged near about years Son of Bihari Rai.
 5. Ashok Rai, Male, aged near about 38 years, Son of Triveni Rai.
 6. Vinod Kumar, Male, aged near about 28 years, Son of Bihari Rai.

All 1 to 6 resident of Village- Musepur Balua, PS- Doriganj, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. S S P Yadav, Advocate

For the State : Mr. Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 05-10-2021

The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners, which was allowed.

2. Heard Mr. S S P Yadav, learned counsel for the petitioners and Mr. Madhura Nand Jha, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.



3. Learned counsel for the petitioners submitted that he may be permitted to withdraw the petition on behalf of petitioner no. 6, namely, Vinod Kumar, as he has been arrested.

4. In view thereof, as prayed for by learned counsel for the petitioners, the petition on behalf of petitioner no. 6, namely, Vinod Kumar, stands disposed of as withdrawn and is restricted to petitioners no. 1 to 5.

5. The petitioners no. 1 to 5 apprehend arrest in connection with Doriganj PS Case No. 29 of 2021 dated 15.06.2021, instituted under Sections 374, 323 of the Indian Penal Code, 1860 to which later on Section 307 and 379/34 of the Indian Penal Code was added.

6. As per the FIR, the petitioners and others had come armed with *lathi*, *danda* and iron rod and had assaulted the informant party and specifically against petitioner no. 6 that he had assaulted the informant by iron rod.

7. Learned counsel for the petitioners submitted that the parties are agnates and this is a totally false case. It was submitted that due to land dispute some minor incident happened between the parties and the petitioner no. 2 has also lodged Doriganj PS Case No. 130 of 2021 for the same incident. It was submitted that both the sides have sustained injury but they are simple in nature.



Learned counsel submitted that the assault attributed to petitioners no. 1 to 5 is only by *lathi* and *danda* and specific against the petitioner no. 6 that he assaulted by iron rod, but not against petitioners no. 1 to 5. Learned counsel submitted that the petitioners no. 1 to 5 have no other criminal antecedent. It was submitted that though against petitioner no. 2 also, there is specific allegation of assault on the brother of the informant by iron rod but no injury has been caused as no report has been produced, either before the Court or before the police during investigation.

8. Learned APP submitted that against petitioner no. 2 also there is specific allegation of assault by iron rod.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, having regard to the fact that there is general and omnibus allegation against petitioners no. 1 to 5 of being armed with *lathi* and *danda* and no injury report of the brother of the informant having been produced and they also not having any other criminal antecedent and being agnates and also there being counter case for the same incident, the Court is inclined to allow the prayer for pre-arrest bail.



10. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, petitioner no. 1, namely, Bihari Rai; petitioner no. 2, namely, Suresh Rai @ Tinku Rai; petitioner no. 3, namely, Pramod Kumar; petitioner no. 4, namely, Bikram Kumar and petitioner no. 5, namely, Ashok Rai, 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 Concerned Court in Doriganj PS Case No. 129 of 2021, 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 Court and police/prosecution. 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.

11. It shall also be open for the prosecution to bring any violation of the foregoing conditions 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.



12. The petition stands disposed of in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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