

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37750 of 2020

Arising Out of PS. Case No.-317 Year-2020 Thana- BAIRIYA District- West Champaran

1. Deepak Pandit @ Deepak Panditt, aged about 28 years, Gender-Male, son of Late Kapildev Pandit,
 2. Pradeep Kumar Pandit, aged about 35 years, Gender- Male, son of Late Kapil Dev Pandit,
 3. Nitesh Kumar, aged about 18 years, Gender- Male, son of Ajay Kumar Pandit.
- All are resident of village - Balwa Rampurwa, P.S. - Bairiya, District - West Champaran at Bettiah

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Binay Kumar, Advocate
For the State	:	Mr. Bharat Bhushan, APP
For the Informant	:	Mr. Abhishek Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 23-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Binay Kumar, learned counsel for the petitioners; Mr. Bharat Bhushan, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Abhishek Kumar, learned counsel for the informant.

3. The petitioners apprehend arrest in connection with Bairiya PS Case No. 317 of 2020 dated 09.07.2020, instituted under Sections 341, 323, 324, 379, 307, 504, 506/34 of the Indian Penal Code.

4. The allegation against the petitioners is of assault



on the son of the informant and specifically against the petitioner no. 1 is of inflicting *farsa* blow on the head of the informant and against the petitioner no. 3 is of assault on the son of the informant on the ear by *lathi* due to which he sustained injury and further, it has been alleged that all the accused took Rs.11,400/- from the pocket of the informant and also snatched gold chain from his son.

5. Learned counsel for the petitioners submitted that as per the FIR itself it was the informant side, who had called on mobile of the petitioners' due to which it is alleged that the petitioners' side had threatened with dire consequences. It was submitted that from the same it is obvious that the call had come from the side of the informant and when a lady answered the call, the informant's side had used obscene language. It was submitted that this vital fact has been suppressed in the FIR. However, it was submitted that since there is direct allegation of attack by *farsa* against the petitioner no. 1 on the head on the informant, which is corroborated by the injury report, he would not seriously press the application on behalf of the petitioner no.1, Deepak Pandit @ Deepak Panditt. Further, it was submitted that against petitioner no. 2, there is absolutely no overt act alleged and at best, he was only present when the



incident is said to have occurred. With regard to the petitioner no. 3, it was submitted that the Court may consider the fact that he is about 18 years old i.e., just on the verge of majority and it is not expected that he would act in a manner what is expected from a mature person, who is aware of the implications of his act. Further, it was submitted that even otherwise, as per the allegation, the attack was by *lathi* only on the ear which has resulted in lacerated wound. Learned counsel submitted that there is no criminal antecedent of the petitioners no. 1 and 2, but against the petitioner no. 3, there is Complaint Case No. 1312 of 2020 under Section 107 of the Code of Criminal Procedure, 1973, relating to security and keeping peace.

6. Learned APP submitted that the petitioners were together in the Act which has resulted in serious head injury to the informant. However, it was not controverted that such injury is specifically attributed to the petitioner no. 1.

7. Learned counsel for the informant submitted that the petitioners had acted in a highhanded manner only for the reason that a call was made on their mobile which shows their conduct and aggressive nature.

8. 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. 2 and 3, namely, Pradeep Kumar Pandit and Nitesh Kumar, 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 Additional Chief Judicial Magistrate, 1st, West Champaran at Bettiah, in Bairiya PS Case No. 317 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. 2 and 3, (ii) that the petitioners no.2 and 3 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners no. 2 and 3, and (iii) that they 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.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners no. 2 and 3.

10. The prayer for pre-arrest bail of the petitioner no.



1, Deepak Pandit @ Deepak Panditt, is rejected.

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

(Ahsanuddin Amanullah, J)

J. Alam/-

AFR/NAFR	
U	
T	

