

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39532 of 2020

Arising Out of PS. Case No.-153 Year-2020 Thana- TARAIYA District- Saran

1. Sanjay Singh, aged about 48 years, (Male), Son of Vishwanath Singh, Resident of Village-Saraiya, Basant, P.S.- Taraiya, District-Saran- 841401.
2. Vikesh Kumar Singh, aged about 26 years (Male), Son of Late Hawaldar Singh, Resident of Village-Saraiya, Basant, P.S.- Taraiya, District-Saran- 841401.
3. Avdhesh Singh, aged about 50 years, (Male), Son of Late Pashupati Singh Resident of Village-Saraiya, Basant, P.S.- Taraiya, District - Saran- 841401.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Surendra Kishore Thakur, Advocate.
For the Informant	:	Mr. Radha Mohan Singh, Advocate.
For the State	:	Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 28-07-2021 Learned counsel for the petitioners is directed to remove the defects, as pointed out by the office, within a period of four weeks from the date of restoration of normalcy.

Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State through Virtual mode.

The petitioners are apprehending their arrest in a case for the offence registered under Sections 341, 323, 342, 324, 307/34 of the I.P.C. read with Section 27 of the Arms Act. Later on, Section 302 of the I.P.C. was also added.

The prosecution story, in brief, is that on 14.05.2020



at about 7.00 P.M., when the informant after closing his shop was returning to his home and as soon as, he reached on the road near his house, all the accused persons, namely, Narendra Singh @ Deepak Singh, Sanjay Singh, Pankaj Singh, Subodh Singh, Kuber Singh, Manish Kumar and Chandan Singh were already there with country made pistol, Sword, Lathi-Danda and Iron rod and surrounded him. In the meantime, his villager Kailash Kumar also arrived there who tried to settle the dispute but Narendra Singh @ Deepak Singh ordered to Pankaj Singh to kill the informant. Upon which, Kuber Singh handed over pistol to Pankaj Singh and Pankaj Singh fired upon the informant, which hit in the stomach of the informant and started oozing blood, as a result of which, he fell down. Thereafter, Kailash Kumar was caught by Sanjay Singh and Chandan Singh assaulted with Sword on the head of Kailash Kumar resulting that Kailash Kumar sustained injury. The informant has further alleged that on his alarm, his uncles Ram Kumar Singh and Jay Prakash Singh also arrived there to rescue him but Awadhesh Singh (petitioner no. 3), Vikesh Kumar Singh (petitioner no. 2) and Sanjay Singh (petitioner no. 1) assaulted with Iron rod to Ram Kumar Singh on his head. Jay Prakash Singh was assaulted by Manish Kumar and Subodh Kumar with Lathi-Danda and



accused persons also snatched Rs. 46,700/- from his pocket and a golden chain from his neck. In the meantime, villagers arrived there then accused persons fled away. The informant and his uncles were brought to Madhaura Referral Hospital where from they were referred to Sadar Hospital, Chapra. Seeing the serious condition of Ram Kumar Singh, he was referred to P.M.C.H., Patna for better treatment.

It has been submitted by learned counsel for the petitioners that the petitioners have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioners. As per allegation, the co-accused Pankaj Singh is said to have fired upon the informant and the co-accused Chandan Singh is said to have given a Sword blow on Kailash Kumar. As far as all the three petitioners are concerned, they are said to have given a Iron rod blow on the head of the deceased Ram Kumar Singh. The injury report of Ram Kumar Singh is in paragraph no. 83 of the case diary. The only external injury found on the body of the deceased is said to be an abrasion on elbow and the nature of injury is said to be simple. The injury report of the injured (deceased) does not corroborate with the allegations made in the F.I.R. in respect to assault. The said Ram Kumar Singh was



examined by the doctor on 15.05.2020. Subsequently, the said Ram Kumar Singh succumbed to death and his postmortem was conducted on 13.06.2020. The deceased is said to have died approximately after a period of one month from the date of occurrence. The postmortem report further indicates that the death was due to septicaemia. Learned counsel for the petitioners further submits that the death is due to secondary haemorrhage and not because of primary haemorrhage. It is further submitted that the allegation of assault by petitioners on the head of deceased by Iron rod as levelled in the F.I.R. does not corroborate with the injury report of the deceased which is in paragraph no. 83 of the case diary. As per the injury report there is no injury on the head of the deceased when he was examined by the doctor concerned on 15.05.2020. Hence, no offence under Section 302 of the I.P.C. could be made out. At best, it is a case for an offence under Section 304 (Part-II) of the I.P.C. It is further submitted that there is case and counter case between the parties. Injury on the side of accused persons including the petitioner no. 1 has not been explained by the prosecution. The prosecution has not come with clean hands.

On behalf of the learned counsel for the State and learned counsel for the informant, it has been submitted that the



petitioners are named in the F.I.R. and there is allegation of assault by Iron rod causing injury on the head of the deceased.

Considering the aforesaid facts and circumstances of the case, let the petitioners above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of the learned Additional Chief Judicial Magistrate-I, Saran at Chapra, in connection with Taraiya P.S. Case No. 153 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioners shall furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand) only each with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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