

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.439 of 2021

Arising Out of PS. Case No.-104 Year-2020 Thana- SURSAND District- Sitamarhi

1. Ajay Mukhiya, Male, aged about 32 years, Son of Puran Mukhiya, Resident of Village - Harri, Dularpur, P.S.- Sursand, Distt.- Sitamarhi.
2. Chandan Mukhiya @ Chandan Kumar, Male, aged about 16 years, Son of Birendra Mukhiya, Resident of Village - Harri, Dularpur, P.S.- Sursand, Distt.- Sitamarhi.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Dinesh Jha, Advocate.
For the Opposite Party	:	Mr. Ashok Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 25-06-2021 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 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, 325, 429, 379, 504 and 307/34 of the I.P.C.

The prosecution story, in brief, is that on 06.04.2020 at 5.00 P.M., when the informant learnt that Ajay Mukhiya (petitioner no. 1) had killed his she-goat by assaulting with bricks while it was grazing in his field, he went to complain the



matter then all the accused persons named in the F.I.R. including the petitioners started to abuse and assault him, then he fled towards his house. The accused persons chased him armed with Lathi, Danda, Rod and Dab and came to his house. They assaulted him with Lathi, Danda and rod. When his brothers Arun Mukhiya, Sukhnandan Mukhiya, Baiju Mukhiya and sister-in-law Jira Devi came to rescue him then they were also assaulted. It is further alleged that Chandan Mukhiya (petitioner no. 2) assaulted his brother with Iron rod causing fracture of his hand. Ajay Mukhiya (petitioner no. 1) assaulted him with Iron Dab aiming his neck but it hit upon his head. He also snatched Rs. 1200/- from him. They damaged the tiles of his house. After assembling of villagers, they fled away.

It has been submitted by learned counsel for the petitioners that the petitioners have got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioners. There is case and counter case between the parties. Injury on the side of accused persons has not been explained by the prosecution. The prosecution has not come with clean hands. Nature of injury is said to be simple. Hence, no offence under Section 307 of the I.P.C. is made out. At best, it is a case for



offence under Section 325 of the I.P.C.

On behalf of the learned counsel for the State, it has been submitted that the petitioners are named in the F.I.R.

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 C.J.M., Sheohar, in connection with Sursand P.S. Case No. 104/2020, 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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