

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 53728 of 2021

Arising Out of PS. Case No.-334 Year-2020 Thana- BISFI District- Madhubani

1. Suraj Kumat, Male age about 61 years, son of Late Bauku Kumat.
2. Saroj Kumat @ Saroj Kumar Kumat, Male age about 28 years, Son of Suraj Kumat.
3. Manoj Chaudhary @ Manoj Kama, Male age 36 years, Son of Suraj Kumat.
All are resident of Village - Bhoj Pandaul, PS - Bisfi, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Saroj Kumar, Advocate
For the State	:	Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 04-10-2021

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. Saroj Kumar, learned counsel for the petitioners and Mr. Ram Naresh Ray, 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. 1, namely, Suraj Kumat, who has been arrested.

4. In view thereof, as prayed for by learned counsel for the petitioners, the petition on behalf of petitioner no. 1, namely,



Suraj Kumat stands disposed of as withdrawn and is restricted to petitioners no. 2 and 3 namely, Saroj Kamat @ Saroj Kumar Kamat and Manoj Chaudhary @ Manoj Kamat respectively.

5. The petitioners no. 2 and 3 apprehend arrest in connection with Bisfi PS Case No. 334 of 2020 dated 24.09.2020, instituted under Sections 147, 148, 149, 341, 323, 324, 307, 354 and 504 of the Indian Penal Code, 1860.

6. The allegation against the petitioners is of general and omnibus assault on the informant, his mother and father and specifically against the petitioner no. 2 that he assaulted on the back of the head by iron rod on the informant. In the FIR, it has also been stated that co-accused Ramesh Mandal has assaulted by *khanti* on the head of the father and mother of the informant as a result of which father of the informant died.

7. Learned counsel for the petitioners no. 2 and 3 submitted that the allegations are false and fabricated and the present case is a counter blast to Bisfi PS Case No. 333 of 2020, which besides being filed earlier to the present case is for the same occurrence in which there was a free fight between the informant's side and the petitioners' side in which four persons were injured. Learned counsel submitted that even the death of the father of the informant was because he had fallen on the road in the fight



between the two sides. Learned counsel submitted that though there is also a general and omnibus allegation of assault on the deceased by all the accused including the petitioners but in the postmortem only one wound on the head has been found which is specifically attributable to co-accused Ramesh Mandal and not the petitioners. Learned counsel submitted that in the police investigation, it has come at paragraph no. 15 that with regard to the injury of the informant and his brother, when the injury report was called from the Medical Officer, Madhubani, he has informed that the two have not been treated in the Medical Centre. It was submitted that the petitioners no. 2 and 3 have no other criminal antecedent.

8. Learned APP submitted that as per the allegation, the petitioners no. 2 and 3 had assaulted the deceased. However, the postmortem report not disclosing any other injury on the body and only one injury on the head, which is specifically attributable to co-accused Ramesh Mandal, was not controverted.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of there being general and omnibus allegation of assault against petitioners no. 2 and 3 and no injury report of informant and his brother having been brought before the police and no treatment by



the Health Centre as also the deceased suffering only one head injury attributable to another co-accused and the petitioners no. 2 and 3, not having any criminal antecedent, the Court is inclined to allow their prayer for pre-arrest bail.

10. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2, namely, Saroj Kamat @ Saroj Kumar Kamat and petitioner no. 3, namely, Manoj Chaudhary @ Manoj Kamat 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, Ist, Benipatti in Bisfi PS Case No. 334 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 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 petitioners no. 2 and 3, 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.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

