

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39805 of 2020

Arising Out of PS. Case No.-24 Year-2020 Thana- KANGLI District- West Champaran

1. Deepak Baitha (Male), S/o Gopichand Baitha @ Gopiyan Baitha, aged about 32 years,
2. Dilip Baitha (Male), aged about 28 years, S/o Gopiyan Baitha,
3. Gopichand Baitha @ Gopiyan Baitha (Male), aged about 52 years, s/o late Badari Baitha,
All R/o Ward No. 6, Village- Sugaha Bhawanipur, P.S.- Kangali, Post-
Sugaha Bhawanipur, West Champaran, Bihar- 845307.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashutosh Nath, Advocate
For the State	:	Mr. Yogendra Kumar, APP
For the Informant	:	Mr. Bashistha Narayan Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 02-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners on 28.07.2021, which was allowed.

3. Heard Mr. Ashutosh Nath, learned counsel for the petitioners; Mr. Yogendra Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Bashistha Narayan Mishra, learned counsel for the informant.

4. The petitioners apprehend arrest in connection with



Kangali PS Case No. 24 of 2020 dated 23.04.2020, instituted under Sections 341, 323, 324, 307, 379, 504, 506/34 of the Indian Penal Code.

5. In the FIR, it is alleged that on 23.04.2020 at about 11.00 AM, during course of *Panchayati*, all the accused persons, including the petitioners, armed with deadly weapons came and started assaulting the informant and others with *gandasa*, *bhala*, *farsa* and *lathi* and against co-accused, Ramvati Devi as also co-accused Gudu Baitha @ Guddu Baltha, there is allegation that they snatched rupees ten thousand from the pocket of the informant.

6. Learned counsel for the petitioners submitted that during *Panchayati* to settle a dispute between the parties, an incident occurred in which both the sides fought with each other, but the same was not premeditated and happened in the heat of the moment. Further, it was submitted that the wife of the petitioner no. 1 has filed Kangali PS Case No. 25 of 2020 for the same incident in which the petitioners' side have also received injuries. He submitted that the petitioners are not accused in any other case It was submitted that two similarly situated co-accused, Dipu Baitha and Gudu Baitha @ Guddu Baltha, have been granted bail by a coordinate Bench by order



dated 12.10.2020 passed in Cr. Misc. No. 26626 of 2020. It was submitted that they had to seek regular bail as within a few days of the incident they were arrested by the police without getting any opportunity to avail the remedy of moving before the Court for anticipatory bail.

7. Learned APP submitted that the petitioners along with others had come armed with deadly weapons and had assaulted the informant's side.

8. Learned counsel for the informant submitted that at least against the petitioner no. 1, there is specific allegation of assault by *farsa* on the head which has resulted in grievous injury to the informant. However, it was not controverted that with regard to the petitioners no. 2 and 3, though there is allegation of assault, but the injuries inflicted are simple.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the incident, as per the FIR itself, happened during a *Panchayati* and on the spur of the moment and both sides have fought with each other, for which there is a counter case also and the petitioners having no antecedent and may have indulged in some overt act; however, assault by the petitioner no. 1 only has resulted in grievous injury, whereas, that by



petitioners no. 2 and 3 have resulted in simple injuries and that there has been injury on the petitioners' side also. In view thereof, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners no.2 and 3, namely, Dilip Baitha and Gopichand Baitha @ Gopiyan Baitha respectively 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 Sessions Judge, West Champaran, Bettiah, in Kangali PS Case No. 24 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 the undertaking or failure to cooperate shall lead to cancellation of bail bonds of petitioners no. 2 and 3.

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

11. The petition on behalf of the petitioner no. 1, Deepak Baitha, stands rejected.

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

(Ahsanuddin Amanullah, J)

J. Alam/-

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