

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39912 of 2020**

Arising Out of PS. Case No.-66 Year-2020 Thana- PUSA District- Samastipur

1. Chandan Kumar, aged about 30 yrs, Male.
2. Kundan Kumar, aged about 25 years Male.
Both are sons of Raj Kumar Ray, resident of village- Harpur Mahmada, P.S.-
Pusa, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anshu Dhar Sharma, Advocate
For the State	:	Mr. Kumar Ranjit Ranjan, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 21-08-2021

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 10.08.2021, which was allowed.

3. Heard Mr. Anshu Dhar Sharma, learned counsel for the petitioners and Mr. Kumar Ranjit Ranjan, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. Learned counsel for the petitioners submitted that the petitioner no. 1, Chandan Kumar, has been arrested and enlarged on bail by the Court below and, thus, he may be permitted to withdraw the petition on his behalf.



5. In view thereof, the petition on behalf of the petitioner no. 1, Chandan Kumar, stands disposed of as withdrawn and is limited to petitioner no. 2, Kundan Kumar.

6. The petitioner no. 2 apprehends arrest in connection with Pusa PS Case No. 66 of 2020 dated 09.09.2020, instituted under Sections 307, 323/34, 341, 447, 504, 506 of the Indian Penal Code.

7. The allegation against the petitioner no. 2, along with others, is of assaulting the informant and his brother and specifically against both the petitioners is of assaulting the informant with *khanti* on his head.

8. Learned counsel for the petitioner no. 2 submitted that there is allegation of assault by *khanti* on the head by the petitioner no. 2, but the same is not corroborated by the injury report as only two wounds on the head have been found and the nature is said to be simple caused by hard and blunt substance. Learned counsel submitted that there is counter version of the case also, being Pusa PS Case No. 65 of 2020 instituted on 08.09.2020 i.e., one day prior to the present case, in which the informant's side was the aggressor. Learned counsel submitted that as per his information, the injury suffered on the side of the accused in the present case, for which the other case has been



filed, is grievous in nature. Learned counsel submitted that the petitioner no. 2 has no other criminal antecedent.

9. Learned APP submitted that in the FIR, there is direct allegation of assault by iron *khanti* on the head of the informant by both the petitioners and two wounds have been found on the head. However, it was not controverted that the injuries have been found to be simple in nature.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, though there is allegation of assault on the head, but the injury being simple in nature and the petitioner no. 1 having been granted bail by the Court below as also the petitioner no. 2 not having any other criminal antecedent, the Court is persuaded to allow the prayer for pre-arrest bail of the petitioner no. 2.

11. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2, Kundan Kumar, be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Samastipur, in Pusa PS Case No. 66 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 petitioner no. 2, (ii) that the petitioner no. 2 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner no. 2, and (iii) that the petitioner no. 2 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 his bail bonds.

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

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

(Ahsanuddin Amanullah, J)

J. Alam/-

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