

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4372 of 2021

Arising Out of PS. Case No.-184 Year-2019 Thana- ANDHRAMATH District- Madhubani

1. Joga Nand Safi (Male), aged about 43 years, son of Sant Lal Safi.
 2. Ram Pukar Safi (Male), aged about 62 years, son of late Babu Lal Safi.
 3. Lakhi Chand Safi @ Lakhi Chan Safi (Male), aged about 60 years, son of late Babu Lal Safi.
 4. Sant Lal Safi (Male), aged about 65 years, son of late Babu Lal Safi.
 5. Niraj Safi (Male), aged about 19 years, son of Yoga Nand Safi.
 6. Chhabu Lal Safi (Male), aged about 60 years, son of Sub Lal Safi.
- All are resident of Village- Mahthour Got, P.S.- Andhramath, 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. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 27-08-2021

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, which was allowed.

3. Heard Mr. Saroj Kumar, learned counsel for the petitioners and Mr. Satya Nand Shukla, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.



4. Learned counsel for the petitioners undertakes to e file the petition supported by affidavit, today itself. Let the same be done.

5. Learned counsel for the petitioners submitted that the petitioner no. 5, Niraj Safi, has been arrested and, thus, he may be permitted to withdraw the petition on his behalf.

6. In view thereof, as prayed for by learned counsel for the petitioners, the petition on behalf of the petitioner no. 5, Niraj Safi, stands disposed of as withdrawn and is restricted to petitioners no. 1, 2, 3, 4 and 6, namely, Joga Nand Safi, Ram Pukar Safi, Lakhi Chand Safi @ Lakhi Chan Safi, Sant Lal Safi and Chhabu Lal Safi.

7. The petitioners no. 1, 2, 3, 4 and 6 apprehend arrest in connection with Andhramath PS Case No. 184 of 2019 dated 05.12.2019, instituted under Sections 341, 323, 324, 307, 379, 447, 397, 436, 504/34 of the Indian Penal Code.

8. The allegation against the petitioners is of trying to loot the wheat paddy worth Rs. 50,000/- and also setting ablaze the house and thereafter assaulting the informant and others. The specific allegation against the petitioner no. 1 is of inflicting blow by *farsa* on the neck of the informant, whereas, against the other co-accused, who are not the petitioners herein,



of assault on the other victims.

9. Learned counsel for the petitioners no. 1, 2, 3, 4 and 6 submitted that there is counter case, i.e., Andhramath PS Case No. 183 of 2019, which is earlier in time, in which it is alleged that the petitioners' side was wanting to plough the land, but it is the informant side, who had come armed and had assaulted them. It was submitted that both the cases relate to the same incident and though the incident took place on 04.12.2019, but the present FIR has been lodged on 05.12.2019 after more than 24 hours. It was submitted that both the sides have suffered injuries. Learned counsel drew the attention of the Court to the injury reports of the victims of both the cases and contended that upon the informant, one incised wound on the side of the neck has been found, which is said to be caused by sharp cutting object, but all the injuries are simple in nature. It was submitted that the petitioner no. 1 has also received injury. Learned counsel submitted that against petitioners no. 2, 3, 4 and 6, there is no specific allegation of any assault and the same is only general and omnibus and, thus, at best, they can be said to be present there as members of the mob. It was submitted that the petitioners have no criminal antecedent.

10. Learned APP submitted that all the petitioners



have participated in the assault in which injuries have been inflicted. However, it was not controverted that only against the petitioner no. 1, there is specific allegation of assault by *farsa* on the neck, whereas, against petitioners no. 2, 3, 4 and 6, the same is general and omnibus and also that the injuries suffered are simple in nature.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that as far as petitioners no. 2, 3, 4 and 6 are concerned, there being no specific allegation of any overt act and also that for the same incident there is a counter case and there has been injury sustained by the side of the petitioners also and the same are simple in nature, the Court is inclined to allow the prayer for pre-arrest bail of the petitioners no. 2, 3, 4 and 6.

12. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners no. 2, 3, 4 and 6, namely, Ram Pukar Safi, Lakhi Chand Safi @ Lakhi Chan Safi, Sant Lal Safi and Chhabu Lal Safi 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 concerned learned Judicial Magistrate, 1st Class, Jhanjharpur, in Andhramath PS



Case No. 184 of 2019, 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, 3, 4 and 6, (ii) that the petitioners no. 2, 3, 4 and 6 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners no. 2, 3, 4 and 6, and (iii) that they 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 their bail bonds.

13. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioners no. 2, 3, 4 and 6, 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, 3, 4 and 6.

14. As there is specific allegation of attack by *farsa* on the neck of the informant against the petitioner no. 1 and the injury report also shows incised wound on the neck caused by sharp cutting object, the Court is not inclined to grant pre-arrest bail to the petitioner no. 1, Joga Nand Safi.

15. Thus, the petition on behalf of the petitioner no. 1, Joga Nand Safi, stands rejected.



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

(Ahsanuddin Amanullah, J)

J. Alam/-

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