

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 1991 of 2021

Arising Out of PS. Case No.-103 Year-2020 Thana- GURUA District- Gaya

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1. Md. Abdul Rub, aged about 55 years, Male, Son of Late Abdul Halein.
 2. Md. Suhail, aged about 30 years, Male, Son of Abdul Rub.
 3. Md. Nehal, aged about 28 years, Male, Son of Abdul Rub.
All resident of Village-Bazuu Bigha, PS-Guraru, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Rina Sinha, Advocate
For the State	:	Mr. Md. Ataur Rahman, 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 09.08.2021, which was allowed.

3. Heard Ms. Rina Sinha, learned counsel for the petitioners and Mr. Md. Ataur Rahman, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioners apprehend arrest in connection with Guraru PS Case No. 103 of 2020 dated 01.09.2020, instituted under Sections 147, 148, 149, 323, 341, 325, 307, 504, 506 of the Indian Penal Code and 27 of the Arms Act, 1959.



5. The allegation against the petitioners is that upon call by petitioner no. 1 to kill, the petitioner no. 3 assaulted the informant on the head by countrymade pistol and the petitioner no. 2 had fired, but the informant somehow managed to save himself.

6. Learned counsel for the petitioners submitted that the real cause has not been mentioned, though it has been indicated that there was some fight between the children of the two sides two days prior to the incident, but the fact is that a scuffle took place between the petitioner no. 3 and the maternal nephew of the informant, who used to tease the daughter/sister of the petitioners. Learned counsel submitted that the injury report shows simple injury on the head as only a small lacerated wound was found, and though in the X-ray, there is fracture of 5th phalange i.e., the little finger of the right hand, but assault on the same has not been attributed to the petitioners. It was submitted that the petitioners have no other criminal antecedent. Further, it was submitted that there has been neither any recovery of empty cartridge nor firearm injury on any person, including the informant.

7. Learned APP submitted that the petitioners had assaulted the informant.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the genesis in the FIR itself has been shown to be some difference between the children of the two sides two days prior to the incident and there being simple wound on the head which is the only specific overt act alleged against the petitioner no. 3 by his countrymade pistol and the petitioner no. 1 only having alleged to have ordered to kill and against petitioner no. 2 of firing but not causing any injury, as also the petitioners having no criminal antecedent, the Court is persuaded to allow the prayer for pre-arrest bail.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners 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 Chief Judicial Magistrate, Gaya in Guraru PS Case No. 103 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, (ii) that the petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners 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.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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