

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 58825 of 2021

Arising Out of PS. Case No.-233 Year-2020 Thana- LODIPUR District- Bhagalpur

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1. Md Kajim @ Md Kazim, aged about 50 years, Male Son of Late Md. Ismail @ Barku.
 2. Md Hamayu @ Md Hemayu, aged about 18 years, Male Son of Md. Kajim @ Md. Kazim.
Both resident of Village - Near Masjid (Agar Pur), PS- Lodipur, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Md. Mushtaque Alam, Advocate
For the State	:	Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-10-2021

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. Md. Mushtaque Alam, learned counsel for the petitioners and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioners apprehend arrest in connection with Lodipur PS Case No. 233 of 2020 dated 16.12.2020, instituted under Sections 448, 341, 323, 308, 354, 504 and 506/34 of the Indian Penal Code, 1860.



5. The allegation against the petitioners and another person is of assault on the informant, his wife and son and specifically against co-accused Md. Aman, of hitting the informant by iron rod on head resulting in injury.

6. Learned counsel for the petitioners submitted that the allegation against them is general and omnibus and specifically against co-accused Md. Aman is of hitting by iron rod on the head. It was submitted that the order of the learned 3rd Additional Sessions Judge-cum- Special Judge (SC/ST Act), Bhagalpur in ABP No. 1436 of 2021 dated 07.09.2021, it has been noted that there was fracture of right frontal bone, orbital roof, lamina papyreacca and nasal bone on the informant, the same being attributable to co-accused Md. Aman and the petitioners have been falsely implicated. It was submitted that the petitioners have no other criminal antecedent.

7. Learned APP submitted that the allegation against the petitioners also is of assault. However, it was not controverted that the injury which has been found on the informant is specifically attributed to co-accused Md. Aman and not the petitioners herein.

8. 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 attack and one



injury on the head being specifically attributable to another co-accused, as has been noted in the order of the Court below and the petitioners not having any other criminal antecedent, the Court is inclined 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 ACJM-IX, Bhagalpur in Lodipur PS Case No. 233 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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