

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9110 of 2021

Arising Out of PS. Case No.-44 Year-2020 Thana- BHAGWANGANJ District- Patna

1. Bittu Kumar aged about 19 years male, Son of Ramesh Ram Resident of Village- Belauna, P.S.- Bhagwanganj, District- Patna.
2. Rahish Kumar aged about 21 years, male, Son of Umesh Ram Resident of Village- Belauna, P.S.- Bhagwanganj, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gajanan Mishra, Adv
For the Opposite Party/s : Mr. Ramchandra Singh APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 06-07-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

2 Learned counsel for the petitioners is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

3. Heard learned counsel for the petitioners and learned counsel for the State

4. The petitioners seek bail in Bhagwanganj PS Case No. 44 of 2020, instituted for the offence under Sections 323,341, 354,307 and 302/34 of the Indian Penal Code.

5. As per the prosecution case, one Vikash Kumar had teased the daughter-in-law of the informant while she had gone



in the field to attend the call of nature. When the victim daughter-in-law came back to her house, she disclosed the entire incident to her mother-in-law. Thereafter, other family members went to the house of Vikash Kumar to inquire about the matter. It is further alleged that thereafter petitioners along with Vikash Kumar, Sangeeta Kumari, Ravi @ Jitendra Kumar, and Rajani kant dragged the nephew of the informant, namely, Pankaj Kumar inside the house and assaulted him with *lathi*, as a result of which, he sustained injury over his head. In the meantime, Munna Ram started fleeing away, but Vikash Kumar chased him and assaulted him with sword on his head, as a result of which, he fell down with bleeding injuries over his head. When the informant and others reached there, they found him in unconscious condition. Both the injured were taken to Sadar Hospital, Masaurhi, where the doctor declared Munna Ram brought dead.

6. Learned counsel appearing for the petitioners submitted that as far as the petitioners are concerned, there is general and omnibus allegation against them to have assaulted one Pankaj Kumar. He contended that though, in the first information report, the allegation of assault upon Pankaj Kumar is made against altogether six persons, the injury report, as contained in Annexure-2 of the present application, issued by the doctor, who examined Pankaj Kumar, would show that he had sustained only one lacerated injury on his head, which is simple in nature. He further contended that so far as the assault upon the deceased Munna Kumar is concerned, the same is confined against co-accused Vikash Kumar. He contended that the allegation of outraging modesty of the daughter-in-law of the informant is confined against co-accused Vikash Kumar only. According to



him, neither the ingredients of the offence alleged under Section 354-B of the Indian Penal Code nor the ingredients of the offence alleged under Section 302 of the Indian Penal Code would be attracted against the petitioners. Similarly situated co-accused, namely Ravi @ Jitendra Kumar and Rajni Kant have been allowed bail in Cr. Misc. No. 32113 of 2020.

7. Learned counsel appearing for the State has opposed the application for grant of bail to the petitioners. He contended that so far as the petitioners are concerned, they are also alleged to have assaulted the injured Pankaj Kumar. He submitted that only because a single injury was found on the person of Pankaj Kumar, it cannot be said that the petitioners were not responsible for causing injury to him. He also contended that though the allegation of assault upon the deceased is confined to Vikash Kumar, the chain of circumstance would show that the petitioners were sharing common intention.

8. Having heard the parties and perused the materials on record, since the allegations made against the petitioners are general and omnibus causing injury to Pankaj Kumar and said Pankaj Kumar had sustained only one injury, they are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Masaurhi, Patna in connection with Bhagwanganj P. S. Case No.44 of 2020 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor will also undertake to inform the Court if there is any change in the address of the petitioners.



(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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