

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20927 of 2021

Arising Out of PS. Case No.-207 Year-2019 Thana- RAJPUR District- Buxar

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1. BRIJ NANDAN LAL S/o Late Suraj Lal R/o village- Rajpur, P.S.- Rajpur, Distt.- Buxar
 2. Sambhu Kumar @ Shambhu Srivastava S/o Brij Nandan Lal R/o village- Rajpur, P.S.- Rajpur, Distt.- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Kalyan Shankar, Advocate Mr.Chandan Kumar Verma, Advocate
For the informant	:	Mr. Manendra Kumar Sinha, Advocate
For the Opposite Party/s	:	Mr.Umanath Mishra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 28-01-2022

Heard the parties through video conferencing.

Heard Sri Kalyan Shankar, learned counsel appearing on behalf of the petitioners, Sri Manendra Kumar Sinha, learned counsel appearing on behalf of informant and Sri Umanath Mishra, learned A.P.P. for the State.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

The petitioners, who is in custody since 05.01.2021, seek regular bail in connection with Rajpur P.S. Case No. 207 of 2019, for the offence punishable under Sections 147, 149, 341, 323, 324, 307 and 504 of the Indian Penal Code.

The prosecution case, in brief, is that on 10.09.2019 at



about 10.00 A.M. the informant heard some noise and came out from his house and saw that there was hot exchange of words in between his neighbours Krishna Bihari Lal and Brij Nandan Lal on the issue of digging foundation and Krishna Bihari Lal insisted for measurement of the land and thereafter Brij Nandan Lal ran to his house and took out sword in his hand and his brother Daya Shankar Lal and sons Shambhu Srivastava and Navin Srivasava and three sons of Daya Shankar Lal and wife of Brij Nandan Lal variously armed with sword and axe also came there. It has further been alleged that Brij Nandan Lal assaulted on the head of Krishna Bihari Lal by means of sword and when the informant tried to intervene then Shambhu Srivastava assaulted to the informant by means of sword and the informant received injury on his head. It has also been alleged that when brother of the informant namely, Piyush Kumar Pankaj and Nikhil Kumar came there to save the informant then Brij Nandan Lal assaulted to Piyush Kumar on his head with intent to kill him. It has also been alleged that Shambhu Srivastava assaulted to uncle of the informant namely Bindeshwari Prasad Srivastava and he received injury on his head. Shambhu Srivastava also assaulted to nephew of the informant by means of sword. Daya Shankar Srivastava assaulted to Bindeshwari Prasad Srivastava. Shakti Srivastava assaulted to Piyush Kumar on his back. Nikhil Kumar was assaulted by Shakti Srivastava and Shambhu Srivastava. Lastly, it has been alleged that informant reported the



matter to Police and on the basis of Police requisitions the treatment of injured started at Government Hospital and the Police never came to record the statement of informant then he submitted his written report through his brother to Police.

Sri Kalyan Shankar, learned counsel appearing on behalf of the petitioners submits that the petitioner No.1 Brij Nandan Lal is concerned there is no direct allegation against him in the F.I.R. there is general and omnibus allegation against him, evidences has come in investigation that it was he who has assaulted Piyush Kumar Pankaj, on whose person the injury has been found to be grievous in nature caused by sharp cutting weapon. It is further submitted that the petitioner No.1 is a senior citizen aged about 65 years be given benefit of senior citizenship be released on bail. Sri Kalyan Shankar, further, submits that so far as petitioner No.2, namely, Sambhu Umar @ Shambhu Srivastava is concerned, there is allegation against him that he had assaulted the informant by means of sword, but from the injury report, it appears that the injury is lacerated and simple in nature, which falsify the story of the prosecution. He further submits that similarly situated co-accused have already been enlarged on bail. He further submits that there is case and counter case and petitioners are agnates of the informant.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioners. He further submits that so far as



petitioner No.1 Brij Nandan Lal is concerned, there is direct allegation against him, however, he submits that there is specific allegation against petitioner No.2 that he has assaulted the informant, but the injury is simple in nature as opined by the Doctor.

Considering the above mentioned facts and circumstances of the case, so far the petitioner No. 1 Brij Nandan Lal is concerned, there is direct allegation against him that he has assaulted Piyush Kumar Pankaj by means of sword and the injury report submitted by the team of Doctors of PMCH also support the same that the injury is grievous in nature. I am not inclined to enlarge the petitioner No.1 Brij Nandal Lal on bail, at present. Accordingly, his prayer for bail is rejected.

So far as petitioner No.2, namely, Sambhu Kumar @ Shambhu Srivastava is concerned, the allegation against him is that petitioner No.2 had assaulted the informant by means of sword, but from the injury report it appears that the injury found on the person of informant is simple in nature, the petitioner No.2 Sambhu Kumar @ Shambhu Srivastava is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Buxar in connection with Rajpur P.S. Case No. 207 of 2019, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable



property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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