

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28900 of 2021

Arising Out of PS. Case No.-320 Year-2020 Thana- KHAIRA District- Saran

1. ANAND PRASAD Son of Late Phoolena Prasad Resident of Village - Kadipur Nabiganj Nagra, P.S. - Khaira (Nagra), District - Saran (Chapra).
2. Rahul Kumar Son of Anand Prasad Resident of Village - Kadipur Nabiganj Nagra, P.S. - Khaira (Nagra), District - Saran (Chapra).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 32321 of 2021

Arising Out of PS. Case No.-320 Year-2020 Thana- KHAIRA District- Saran

SAROJ KUMAR @ SAROJ PRASAD Son of Late Fulena Sah Resident of Village- Kadipur Nabiganj, P.S.- Khaira, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 32713 of 2021

Arising Out of PS. Case No.-320 Year-2020 Thana- KHAIRA District- Saran

ARUN PRASAD @ ARUN KUMAR S/o Late Fulena Prasad R/o village- Kadipur Nabiganj Nagra, P.S.- Khaira, District- Saran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 28900 of 2021)

For the Petitioner/s : Mr. P.K. Shahi, Sr.Adv.
Mr. Vipin Kumar, Adv.

For the Opposite Party/s : Ms. Gulnar Begum, APP

For the informant : Mr. Brij Bihari Tiwari, Adv.

(In CRIMINAL MISCELLANEOUS No. 32321 of 2021)

For the Petitioner/s : Mr. P.K. Shahi, Sr.Adv.
Mr. Vipin Kumar, Adv.



For the Opposite Party/s : Ms. Pushpa Sinha, APP
For the informant : Mr. Brij Bihari Tiwari, Adv.
(In CRIMINAL MISCELLANEOUS No. 32713 of 2021)
For the Petitioner/s : Mr. Sanjeev Kumar, Adv.
Mr. Ashok Kumar, Adv.
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP
For the informant : Mr. Brij Bihari Tiwari, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 06-01-2022 Heard learned counsel for the parties through video conferencing.

All the three applications for bail having arisen out of the same F.I.R. being Khaira P.S. case no. 320 of 2020 have been taken up together and are being disposed by this common order.

The petitioners have preferred this application for grant of regular bail in a case registered under sections 302, 307, 354B, 323, 324, 380, 147, 148, 149 and 452 of the Indian Penal Code.

As per the prosecution case, the nine named accused persons including the four petitioners herein are stated to have come variously armed. It is stated that they started to hurl abuses and Aditya Kumar struck the brother of the informant in his stomach with the *farsa* and thereafter assaulted him on his neck seriously injuring him. On the others going to his rescue it is stated that the accused persons including the petitioners herein brutally assaulted them. While Guria Devi



assaulted the informant with a knife, it is stated that Arun Prasad assaulted Raja Kumar with an iron road and thereafter with a knife. Saroj Prasad assaulted Shiv Dayal Prasad with a knife while Anand Prasad and Rahul Kumar assaulted the informant's father with a knife on his neck, back etc.

Heard Mr. P.K. Shahi, learned Senior Counsel for the petitioners Anand Prasad, Rahul Kumar and Saroj Kumar and Mr. Sanjeev Kumar learned counsel appearing for the petitioner Arun Prasad, learned counsel for the State and Sri Brij Bihari Tiwari learned counsel for the informant.

It is submitted by learned counsel for the petitioners that the petitioners have been falsely implicated in the case due to village politics. Learned Senior Counsel has taken the Court through paragraph no.15 of the case diary of Khaira P.S. Case no.323 of 2020 to submit that the manner occurrence is other than what has been narrated in the F.I.R. There was a free for all fight between the parties leading to lodging of the case and counter case. It is submitted that the allegation of assault on younger brother of the informant Ravi Ranjan Kumar, since deceased, is solely on Aditya Kumar who being a juvenile has been enlarged on bail. None of the petitioners herein are alleged to have assaulted him. The two



petitioners Anand Prasad and Rahul Kumar are stated to have assaulted the father of the informant namely, Ashok Sah and all the injuries except one for which opinion is reserved, have been found to be simple in nature. Saroj Kumar is said to have assaulted Shiv Dayal Prasad. Besides the allegations being false there is no injury report to substantiate the said allegations. The accused Arun Prasad is said to have assaulted Raja Kumar. It is submitted by learned counsel that from the injury report no lacerated wound has been found on the said Raja Kumar. Further the said Raja Kumar has been granted anticipatory bail in the counter case. While the petitioner Saroj Kumar is in custody since 8.2.2021 the other three petitioners are in custody since 18.2.2021. The petitioners have no criminal antecedent.

The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. With respect to the allegations against petitioners Anand Prasad and Rahul Kumar, it is submitted by learned counsel for the informant that there is specific against them of having assaulted the father of the informant repeatedly with a knife which is substantiated from the injury report of Ashok Prasad Sah wherein six injuries on vital part of the body have been found. With respect to the allegations against Arun Prasad the



allegation of his assaulting Raja Kumar is also substantiated from the injury report.

Having heard learned counsel for the parties and taking into consideration the facts of the case together with the material that has transpired in course of investigation, so far as petitioners Anand Prasad and Rahul Kumar are concerned, the allegations against them is of having assaulted the father of the informant Ashok Prasad Sah. From the injury report of the said Ashok Prasad Sah it transpires that he sustained six incised wound injuries of which three were on chest while others were on neck, back and wrist. Thus the Court is not inclined to enlarge the petitioner Anand Prasad and Rahul Kumar on bail and their application is rejected for the present.

Liberty is granted to Anand Prasad and Rahul Kumar to renew their prayer for bail after six months.

So far as Saroj Kumar is concerned, he is said to have assaulted Shiv Dayal Prasad and no injury report of Shiv Dayal Prasad is available in the case diary. Further Arun Prasad is said to have assaulted Raja Kumar with an iron rod on his head and there is specific allegation of Arun Prasad assaulting Raja Kumar with the knife in his stomach and back. The only injury on the head of Raja Kumar is incised wound and further as per the injury report of Raja Kumar, no injury has been found in his stomach or back.



Thus in the facts of the case, the Court directs the petitioners Saroj Kumar and Arun Prasad to be enlarged on bail in connection with Khaira P.S. Case no. 320 of 2020 on each of them furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class, Chapra at Saran.

(Partha Sarthy, J)

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