

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40631 of 2021

Arising Out of PS. Case No.-481 Year-2019 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

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1. Dhiraj Kumar Son of Late Varun Kumar Singh @ Varun Kumar Resident of Village- Gangeya, P.S.- Katra, District- Muzaffarpur.
 2. Avinash Kumar @ Awnish Kumar Son of Satish Singh Resident of Village- Chak Masud, P.S.- Vaishali, District- Vaishali (Hajipur).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hari Kishore Thakur, Advocate.

For the Opposite Party/s : Mr. Jai Narain Thakur, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 07-06-2022 Heard Mr. Hari Kishore Thakur, learned counsel for the petitioners and Mr. Jai Narain Thakur, learned Additional Public Prosecutor for the State.

Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

The petitioners apprehend their arrest in connection with Kazi Mohammadpur P. S. Case No. 481 of 2019 registered for the offences punishable under Sections 147, 341, 323, 324, 379, 307, 504 and 506 of the Indian Penal Code.

As per the prosecution case, it is alleged that on 20.11.2019 all the F.I.R. named accused persons came to the



shop of the informant and when the accused persons refused to pay the price of the goods then same was objected by the informant thereupon the petitioner no. 1 asked the co-accused Satendra and Avanish to catch him and thereupon the petitioner no. 1, namely, Dhiraj Kumar took out *katta* and assaulted over his neck due to which he sustained injuries, thereafter, the informant fell down and taken to the hospital. It is also alleged that other co-accused person snatched Rs. 22,000/- from the informant.

At the outset, learned counsel for the petitioner submits at the bar, on the instruction of his client, that as per his information till date the process under Sections 82/83 of the Cr.P.C. have not been issued.

Learned counsel appearing on behalf of the petitioner submits that the petitioners are students and they were preparing for competitive examinations and because of some altercation, free fight has taken place which resulted into injury caused to the informant. It is also submitted that there is specific allegation against petitioner no. 1, Dhiraj Kumar and so far the petitioner no. 2 Avinash Kumar @ Awnish Kumar is concerned, there is allegation of catching the informant, apart from that there is no allegation of any overt act against the petitioner no.



2. It is lastly submitted that the petitioners have clean antecedent and they have their academic future.

On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that there is specific allegation against these two petitioners, who have actively participated in the said incidence and the petitioner no. 1 assaulted upon the informant.

Having considered the submissions made on behalf of the parties and taking into account the fact that there is specific allegation against the petitioner no. 1 that he assaulted the informant by means of *katta* causing serious injuries on his shoulder, this court is not persuaded to allow this application with respect to the petitioner no. 1. However, this court finds substance in the submission of the learned counsel for the petitioner that except the allegation of catching the informant, there is no allegation of any overt act against the petitioner no. 2 and moreover he is a student, having clean antecedent, let the petitioner no. 2, above named, be enlarged on bail in the event of his arrest or surrender before the Court below within a period of eight weeks from today, on furnishing bail bonds of Rs. 20,000/ (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief



Judicial Magistrate 1st Class, East Muzaffarpur in connection with Kazi Mohammadpur P. S. Case No. 481 of 2019, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure with following conditions:-

- (i) One of the bailors should be the close relative of the petitioner.
- (ii) The petitioner will co-operate in the investigation as well as in conclusion of the trial.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses in course of investigation or during the course of trial.

(Harish Kumar, J)

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