

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41852 of 2021

Arising Out of PS. Case No.-42 Year-2021 Thana- EKMA District- Saran

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1. Tuntun Mahto, S/O Hira Mahto, R/O Village- Phuphri Khurd, P.O- Manikpur, P.S- Ekma, District-Saran.
 2. Arjun Mahto, S/O Hira Mahto, R/O Village- Phuphri Khurd, P.O- Manikpur, P.S- Ekma, District-Saran.
 3. Raj Kumari, W/O Hira Mahto, R/O Village- Phuphri Khurd, P.O- Manikpur, P.S- Ekma, District-Saran.
 4. Jagpati Devi, W/O Jairam Mahto, R/O Village- Phuphri Khurd, P.O- Manikpur, P.S- Ekma, District-Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Swaminath Mahto, S/O Late Lakhi Mahto, R/O Village- Phuphri Khurd, P.O- Manikpur, P.S- Ekma, District-Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Tiwary, Advocate
For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP
For the Informant/Complainant: Mr. Srinath, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 09-06-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Shashi Shekhar Tiwary, learned counsel appearing on behalf of the petitioners and the learned APP for the State as well as Mr. Srinath, learned counsel for the informant.

At the outset, learned counsel for the petitioners submits that during the pendency of the present bail application,



petitioner nos. 2, 3 and 4 have been arrested by the police and as such the application with regard to them has become infructuous.

The petitioner no.1 (Tuntun Mahto) is apprehending his arrest in connection with Ekma P.S. Case No. 42 of 2021 for the offences punishable under Sections 323, 324, 326, 307, 386/370 of the Indian Penal Code.

As per prosecution case, it is alleged that petitioner no.1 and other accused persons have taken the sons of the informant to Bangalore for construction work. It is alleged that after taking work from them for 3-4 months, when his sons demanded their wages, all the accused persons including petitioner no.1 assaulted his sons through Iron pipe and other materials. It is further alleged that thereafter his sons came to the village and when complaint has been made to other accused persons named in the F.I.R. they also assaulted them.

At the outset, learned counsel for the petitioner submits at the bar, on 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.

It is submitted by the learned counsel appearing on behalf of the petitioner no.1 that there is no specific allegation



against petitioner no.1, inasmuch, as the entire incidence is said to have taken place at Bangalore, but surprisingly neither any F.I.R. nor any complaint has been instituted there. Moreover, even after coming to their village, no complaint has been instituted, rather it is alleged that they went to their village and when the entire incidence has been narrated thereupon the accused nos. 5 to 9 assaulted them and lastly after four months a complaint case has been instituted on 09.01.2021. It is further submitted that even from perusal of the prescriptions of the treating Doctor of Bangalore it appears that the son of the informant had fallen from some height, due to which he received head injuries and he was sent to Trauma Centre for treatment. It is lastly submitted that the petitioner no.1 has fair antecedent and he is a contractor at Bangalore.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that petitioner no.1 is the main accused and it is the fact that sons of the informant were assaulted by him, but on account of some reason the F.I.R. could not be instituted at Bangalore, but soon thereafter when they reached at their village, complaint was instituted.

Learned APP for the State opposes the bail



application.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the entire incidence has taken place at Bangalore, but no complaint/F.I.R. has been instituted there and moreover the prescriptions showing the treatment of the son of the informant suggest otherwise, inasmuch, as the petitioner no.1 carrying clean antecedent and he is giving undertaking that he will co-operate in the investigation and will not tamper the evidences, let the petitioner no.1 (Tuntun Mahto), be released on bail, in the event of his arrest or surrender before the court below within 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 Sessions Judge-V, Saran at Chapra in connection with Ekma P.S. Case No. 42 of 2021 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure with the following conditions:

(i) One of the bailors shall be the close relatives of the petitioner.

(ii) The petitioner will cooperate 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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