

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42490 of 2021

Arising Out of PS. Case No.-142 Year-2021 Thana- BANIAPUR District- Saran

1. Umesh Thakur @ Umesh Kumar Sharma S/O Kalanath Thakur @ Kalpnath Sharma R/O Village-Hardi Tola Sareyan, P.S-Baniyapur, District-Saran
2. Rajan Thakur @ Raju Sharma S/O Umesh Thakur @ Umesh Kumar Sharma R/O Village-Hardi Tola Sareyan, P.S.-Baniyapur, District-Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarva Deo Singh, Advocate.

For the Opposite Party/s : Mr. Ashok Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-06-2022 Heard Mr. Sarva Deo Singh, learned counsel for the petitioners and Mr. Ashok Kumar, 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 Baniyapur P. S. Case No. 142 of 2021 registered for the offences punishable under Sections 341, 323, 324, 307, 379, 504, 506 read with Section 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that while the informant was sitting at his door along with his family



members, two accused persons/petitioners arrived with *farsa* and *lathi* and started assaulting the informant. It is subsequently alleged that the petitioner no. 1 caught hold the informant whereas, petitioner no. 2 assaulted him by *farsa* causing head injury.

At the outset, learned counsel for the petitioners 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 petitioners submits that there is specific allegation that the petitioner no. 2 assaulted the informant by means of *farsa* but the injury report reveals that the injury has been caused by hard and blunt substance and as such, it does not corroborate the prosecution case. Further, he draws the attention of this court towards the injury as contained in annexure 2 to this application, from perusal of the injury report, it appears that injury no. 2 is simple in nature and so far injury no. 1 is concerned, the same has been found lacerated wound on left parietal region of hand i.e. not on vital portion. It is further submitted that both the petitioners as well as informant are family members and they have amicably settled the matters and in support of the settlement, a



compromise petition has also been brought on record by way of annexure 3 to this application. It is lastly submitted that these petitioners have no criminal antecedent and they are ready to abide by the conditions imposed by the Hon'ble Court.

On the other hand, learned Additional Public Prosecutor for the State opposes the bail application and submits that there is specific allegation against the petitioners.

Having considered the submissions made on behalf of the parties and taking into account the injury report, which does not corroborate the prosecution case in as much as the petitioners have clean antecedent and the matter has been settled between the parties, let the petitioners, above named, be released on bail, in the event of their arrest or surrender before the Court below within a period of eight weeks from today, on furnishing bail bonds of Rs. 10,000/ (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saran in connection with Baniyapur P. S. Case No. 142 of 2021, 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 petitioners.



- (ii) The petitioners will co-operate in the investigation as well as in conclusion of the trial.
- (iii) They 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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