

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43005 of 2021

Arising Out of PS. Case No.-905 Year-2020 Thana- ARA NAWADA District- Bhojpur

1. Aditya Kumar @ Bhikhari Yadav S/O Bijay Yadav R/O Village-Muhalla Maulabagh, P.S.- Ara Nawada, District- Bhojpur
2. Chitranjan Kumar @ Beti Bua S/O Late Kali Prasad R/O Village-Muhalla Maulabagh, P.S-Ara Nawada, District-Bhojpur.
3. Rohan Kumar S/O Late Kali Prasad R/O Village-Muhalla Maulabagh, P.S-Ara Nawada, District-Bhojpur.
4. Prabhunath Yadav @ Roji S/O Bhairav Yadav R/O Village-Muhalla Maulabagh, P.S-Ara Nawada, District-Bhojpur.
5. Satyam Kumar S/O Binay Yadav R/O Village-Muhalla Maulabagh, P.S-Ara Nawada, District-Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kamlesh Prasad Yadav, Advocate.
For the Opposite Party/s : Mr. Braj Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 08-06-2022 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.

Heard Mr. Kamlesh Prasad Yadav, learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

At the outset, it has been submitted by the learned counsel for the petitioners that during the pendency of the present application petitioner no. 5 has been arrested and as



such, the application with regard to the petitioner no. 5 has become infructuous.

The petitioners apprehend their arrest in connection with Ara Nawada P. S. Case No. 905 of 2020 registered for the offences punishable under Sections 147, 148, 341, 323, 307, 504 and 506 of the Indian Penal Code.

As per the prosecution case, it is alleged that on 21.11.2020 while the informant's son was sitting in his house, all the F.I.R. named accused persons came there and some exchange of hot talk has taken place among them. Thereafter, all the accused persons came there along with sword, *lathi* and brick and assaulted the son of the informant due to which he received 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 petitioner submits that there is general and omnibus nature of allegation against all the petitioners and no specific allegation has been attributed against anyone. It is further submitted that the injury report does not corroborate the prosecution case in as much as



obvious brain injury, the C. T. Scan report of injured, clearly says that “no seen” and in support of his submission the petitioners have brought on record the C. T. Scan report of the injured, as contained in annexure 2 to this application. It is next submitted that the petitioners have fair antecedent and the alleged injury has been received due to free fight, took place between them.

On the other hand, learned Additional Public Prosecutor for the State opposes the bail application and submits that the petitioners are named in the F.I.R. and they have actively participated in the crime.

Having considered the submissions made on behalf of the parties and taking into account the general and omnibus nature of allegation, apart from the fact the injury report clearly says that there is no obvious brain injury seen in as much as the fair antecedent of the petitioners, 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, Bhojpur at Ara in connection with Ara Nawada P. S. Case No. 905 of 2020,



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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