

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45040 of 2021

Arising Out of PS. Case No.-375 Year-2020 Thana- BARHARIA District- Siwan

1. Rizwan Ahmad S/O Akhtar Ahmad Resident Of Village- Paharpur, P.S.- Barharia, District- Siwan.
2. Baby Khatoon W/O Akhtar Ahmad Resident Of Village- Paharpur, P.S.- Barharia, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Syed Mohtashim Akhtar, Advocate.

For the Opposite Party/s : Mr. Nand Kishore Prasad, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 13-06-2022 Heard Mr. Syed Mohtashim Akhtar, learned counsel
for the petitioners and Mr. Nand Kishore Prasad, 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 Barharia P. S. Case No. 375 of 2020 registered for the
offences punishable under Sections 341, 323, 447, 307, 504, 506
and 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on
10.12.2020 while the informant and her son were cleaning her



ancestral house, the F.I.R. named accused persons including the petitioners came with *lathi* and *danda* and started abusing. On protest being made, all the accused persons assaulted the informant and her son causing serious injuries.

At the outset, learned counsel for the petitioners submits at the bar, on the instruction of their 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 no specific allegation of any overt act has been attributed against them. It is further submitted that from the perusal of the impugned order, it appears that the injury sustained on the person of the son of the informant, has been kept reserved. It is also submitted that both the parties are *gotiyas* and the occurrence has taken place on account of free fight and the petitioners have no criminal antecedent. It is lastly submitted that the petitioners are ready to give undertaking that they will not indulge in such type of crime in future and will abide by the conditions imposed by this 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 these petitioners.



Having considered the submissions made on behalf of the parties and taking into account the general and omnibus nature of allegation and apart from the fact that both the parties are own family members and having no criminal antecedent, 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, Siwan in connection with Barharia P. S. Case No. 375 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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