

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44391 of 2021

Arising Out of PS. Case No.-46 Year-2021 Thana- MUSRIGHRARI District- Samastipur

1. Chandeshwar Sah, Son of Lt. Vilat Sah, Resident of Village- Sihma, P.S.- Musrigharari, Dist.- Samastipur.
2. Dhiraj Kumar Sah, Son of Chandeshwar Sah, Resident of Village- Sihma, P.S.- Musrigharari, Dist.- Samastipur.
3. Suraj Kumar Sah @ Surya Prakash, Son of Chandeshwar Sah, Resident of Village- Sihma, P.S.- Musrigharari, Dist.- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Advocate
For the Opposite Party/s : Mr. Binod Kumar, APP

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. Bijay Bhushan Prasad, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Musrigharari P.S. Case No. 46 of 2021 for the offences punishable under Sections 147, 307, 323, 341, 354, 379, 504 and 506 of the Indian Penal Code.

As per prosecution case, it is alleged that on



11.04.2021 all the F.I.R. named accused persons including the petitioners variously armed intercepted the informant and started abusing. It is alleged that when it was protested co-accused Amit Kumar inflicted iron rod on the informant, causing head injury, thereupon petitioner no.1 (Chandeshwar Sah) also inflicted iron rod blow over the shoulder of the informant. It is further alleged that all the accused persons also assaulted the informant with Lathi and Danda and also snatched the valuables from the informant and his other family members.

At the outset, learned counsel for the petitioners 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 petitioners that there is general and omnibus allegation against all the accused persons. So far the allegation of inflicting iron rod blow over the head of the informant is concerned, the same has been attributed to the co-accused Amit Kumar and further the said injury has been found to be simple in nature. In support of his contention, the injury report has been brought on record by way of Annexure-2 to this application. It is further submitted that there is case and counter case and prior to



the institution of the present case, Musrigharari P.S. Case No. 45 of 2021 has been instituted by petitioner no.1 and in fact the injuries have been received on the person of petitioner no.1 and others, which has not been explained by the prosecution. It is next submitted that so far the allegation against petitioner no.1 of inflicting iron rod over the shoulder of the informant is concerned, the same has not been corroborated, as is evident from the injury report. It is lastly submitted that both the parties are Gotia and the petitioners have absolutely clean antecedents.

On the other hand, learned APP for the State opposes the bail application and submits that there is specific allegation against all the accused persons and they have actively participated in the crime.

Having considered the submissions made on behalf of the parties and taking into consideration the general and omnibus allegation, apart from the fact that prior to the institution of the present case, petitioner no.1 had instituted Musrigharari P.S. Case No. 45 of 2021 and moreover the injuries caused to the informant has been found to be simple in nature and also the fact that all the petitioners have got clean antecedents, let the petitioners named above, be released on bail, in the event of their arrest or surrender before the court below



within eight weeks from today, on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Samastipur in connection with Musrigharari P.S. Case No. 46 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 should be the close relatives of the petitioners.

(ii) The petitioners will cooperate 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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