

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45843 of 2021

Arising Out of PS. Case No.-538 Year-2020 Thana- SUGAULI District- East Champaran

1. Farooque Khan, S/o Izhar Khan, R/o Village- Line Sugauli, Ward No. 18, P.S.- Sugauli, District- East Champaran
2. Izhar Khan, S/o Ali Hussain Khan, R/o Village- Line Sugauli, Ward No. 18, P.S.- Sugauli, District- East Champaran
3. Seema Khatoon, W/o Farooque Khan, R/o Village- Line Sugauli, Ward No. 18, P.S.- Sugauli, District- East Champaran
4. Ashma Khatoon, W/o Harun Khan, R/o Village- Line Sugauli, Ward No. 18, P.S.- Sugauli, District- East Champaran
5. Chandani Khatton, W/o Chand Khan, R/o Village- Line Sugauli, Ward No. 18, P.S.- Sugauli, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Advocate

For the Opposite Party/s : Mr. Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 15-06-2022 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. Dhurendra Kumar, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

At the outset, learned counsel for the petitioners submits that during the pendency of the present application petitioner no.2, namely, Izhar Khan, died and as such the present application with regard to petitioner no.2 has become



infructuous.

The petitioner nos. 1, 3, 4 and 5 are apprehending their arrest in connection with Sugauli P.S. Case No. 538 of 2020 for the offences punishable under Sections 447, 341, 323, 324, 307, 504 and 506/34 of the Indian Penal Code.

As per prosecution case, it is alleged that on 18.10.2020, the grandsons of Izhar Khan abused and assaulted the sons of informant and on 19.10.2020 when the informant asked from Farooque Khan (petitioner no.1) about such occurrence of abusing, all the F.I.R. named accused persons got angry and started abusing. It is further alleged that on protest being made Izhar Khan gave Farsa blow on the head of the informant causing serious injuries over his head and ear. It is further alleged that other co-accused persons also assaulted him with fists and slaps.

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 with regard to an occurrence, which took place on 18/19.10.2020, the present F.I.R. has been



instituted on 21.10.2020 and no plausible explanation for delay has been given. It is next submitted that there is general and omnibus allegation against all the petitioners and so far the specific allegation of giving Farsa blow is concerned, the same has been attributed against Izhar Khan (petitioner no.2), who is no more alive. It is also submitted that all the other injuries, except the injury, which has been attributed against petitioner no.2, have been found to be simple in nature and both the parties are agnates and the present occurrence has taken place on account of free fight between both the parties. It is lastly submitted that the petitioners have got clean antecedents.

On the other hand, learned APP for the State opposes the bail application and submits that all the petitioners in furtherance of common intention assaulted the informant. However, he conceded that the specific allegation has been levelled against petitioner no.2.

Having considered the submissions made on behalf of the parties and taking into consideration the general and omnibus allegation against the petitioners, inasmuch as, both the parties are agnates and the other injuries, except one, which has been attributed against Izhar Khan (petitioner no.2), are simple in nature, apart from the fact that the petitioners have absolutely



clean antecedents, let the petitioner nos. 1, 3, 4 and 5 (**Farooque Khan, Seema Khatoon, Ashma Khatoon and Chandani Khatoon**), 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 Chief Judicial Magistrate, Motihari in connection with Sugauli P.S. Case No. 538 of 2020 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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