

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46448 of 2021

Arising Out of PS. Case No.-101 Year-2021 Thana- SAHPUR District- Bhojpur

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1. Mishri Paswan S/O Late Sheo Pujan Paswan R/O Village- Madhopur, P.S.- Shahpur, District- Bhojpur
 2. Birendra Paswan S/O Late Sheo Nath Paswan R/O Village- Madhopur, P.S.- Shahpur, District- Bhojpur
 3. Surendra Paswan S/O Rajnath Paswan R/O Village- Madhopur, P.S.- Shahpur, District- Bhojpur
 4. Lalan Paswan S/O Late Sheo Pujan Paswan R/O Village- Madhopur, P.S.- Shahpur, District- Bhojpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Pandey, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 13-06-2022 Let the defects, if any, be removed within four weeks
from today.

Heard Mr. Arun Kumar Pandey, learned counsel for
the petitioners as well as learned Additional Public Prosecutor
for the State.

At the very outset, learned counsel for the petitioner
submits that during pendency of the present application
petitioner nos. 2 namely, Birendra Paswan, petitioner no. 3
namely, Surendra Paswan, petitioner no. 4 namely, Lalan
Paswan either arrested or surrendered before the court below



and as such application with regard to petitioner nos. 2, 3 and 4 has become infructuous.

The petitioner no.1 apprehends his arrest in connection with Shahpur P.S.Case No. 101 of 2021 registered for the offences punishable under Sections 341, 323, 325, 307, 504, 506/34 of the Indian Penal Code.

At the outset, learned counsel for the petitioner submits at the bar that as per his information till date the process under Sections 82/83 of the Cr.P.C have not been issued.

As per the prosecution case, it is alleged that on 15.04.2021 on account of trivial matter of keeping straw some altercation has taken place and it is alleged that all the FIR named accused persons assaulted the informant and his family members. It is specifically alleged that this petitioner instigated the other co-accused persons to kill them and settle the matter.

It is submitted by the learned counsel for the petitioner no. 1 that there is no specific allegation of any overt act against this petitioner except instigating the co-accused persons. It is further submitted that there is counter version of the present case being Shahpur (Karnamepur O.P) P.S.Case No. 102 of 2021 instituted by one of the co-accused. It is next submitted that a free fight has taken place due to which this



petitioner also sustained injuries but the prosecution has failed to explain the injuries sustained by the petitioner. It is also submitted that so far as injuries sustained to the persons of the informant side are concerned, the same have been found to be simple in nature except one injury which has been caused to the informant over his wrist. It is lastly submitted that the petitioner has no criminal antecedent and is ready to abide the terms and conditions as would be imposed by the Hon,ble Court.

On the other hand, learned APP for the State opposes the bail application of the petitioner and submits that petitioner has actively participated in the alleged crime.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that there is general and omnibus allegation against the petitioner and no specific allegation of any overt act has been attributed against him. Further there is case and counter case between the parties. and the petitioner has also sustained injuries which has not been explained by the prosecution and moreover, he has no criminal antecedent, let the petitioner no. 1 above named, be released on bail, in the event of his 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 Additional Chief Judicial Magistrate 1st , Bhojpur at Ara in connection with Shahpur (Karnamepur) P.S.Case No. 101 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 relative of the petitioner.

(ii) The petitioner will cooperate in the investigation as well as in conclusion of the trial.

(iii) He 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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