

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47679 of 2021

Arising Out of PS. Case No.-237 Year-2020 Thana- RAMGARHWA District- East
Champaran

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1. Sk. Abdullah @ Sheikh Abdullah, Male, aged about 45 years, S/O Sk. Hamza @ Shekh Hamza, R/O Village-Chadwa, P.S-Ramgarhwa, District-East Champaran.
 2. Sk. Akram @ Sk. Ekram, Male, aged about 40 years, S/O Sk. Hamza @ Shekh Hamza, R/O Village-Chadwa, P.S-Ramgarhwa, District-East Champaran.
 3. Sk. Hamza @ Shekh Hamza, Male, aged about 70 years, S/O Late Shekh Sajjad, R/O Village-Chadwa, P.S-Ramgarhwa, District-East Champaran.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Karandeep Kumar, Advocate
For the Opposite Party : Mr. Kumar Veerendra Narayan, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 01-04-2022 Heard learned counsel for the petitioners and learned
counsel for the State through Virtual mode.

Learned counsel for the petitioners is directed to
remove the defects, as pointed out by the office, within a period
of four weeks.

Learned counsel for the petitioners seeks permission
to withdraw the present anticipatory bail application filed on
behalf of petitioner no. 3, namely, Sk. Hamza @ Shekh Hamza,
as he has been taken into judicial custody in connection with
Ramgarhwa P.S. Case No. 237 of 2020, pending in the court of



learned Sub Divisional Judicial Magistrate, Raxaul, East Champaran at Motihari.

Permission is accorded.

Accordingly, the present anticipatory bail application filed on behalf of petitioner no. 3, namely, Sk. Hamza @ Shekh Hamza, is dismissed as withdrawn.

Now, the petitioner nos. 1 and 2 are apprehending their arrest in connection with Ramgarhwa P.S. Case No. 237 of 2020 for the offence registered under Sections 147, 148, 341, 323, 324, 325, 307, 379 and 504 of the I.P.C.

The prosecution story, in brief, is that on 18.08.2020 at 9.00 A.M. the informant was constructing boundary wall, in the meantime, all accused persons including petitioner nos. 1 and 2 armed with *Lathi, Danda, Farsa, Bhala and Bansh* etc., surrounded him and thereafter, co-accused Shekh Hamza abused and ordered to kill him. Then, Abdullah (petitioner no. 1) gave *Farsa* blow over his head but he saved himself and *Farsa* injury was caused on his back. He further gave another blow causing hand injury. Other accused persons also assaulted him badly with *Lathi* and *Fatha* by which his other parts of body was injured. When his wife Sarhun Nesha, son Sakir Hussain and Jubaid Akhtar reached there, then Abdullah (petitioner no.1)



gave *Lathi* blow over the head of Sarhun Nesha by which her head was injured and blood was oozing out. Co-accused Sahira Khatoon assaulted Sahrhun Nesha with bricks over her abdomen. Then, she cried and when the son of informant Sabir Hussain came to rescue her then co-accused Shekh Muslim assaulted Sabir Hussain with *Fatha* causing ear injury. In the meantime, co-accused Shekh Hamza assaulted Jubaid Akhtar, the son of the informant with *Bhala* causing head injury. Then, Jafar and Sohail fell down on the earth and all accused persons assaulted them badly with *Lathi*, *Danda* and *Fatha*. On hulla, when villagers came all accused persons fled away. Allegedly, Rabiun Nesha snatched *Hasuli* from the neck of the informant's wife, co-accused Hamza snatched Rs. 25,000/- from the pocket of the informant, Shekh Abdullah (petitioner no. 1) snatched Mobile from the pocket of Sohail Akhtar worth Rs. 12,000/- and co-accused Shekh Ekram snatched wrist watch worth Rs. 2,500/- from the hand of Zafar. Hence, the present case has been lodged.

It has been submitted by learned counsel for the petitioner nos. 1 and 2 that they have got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against them. They have falsely been implicated in the present case. There is case and counter case



between the parties. Free fight is alleged to have taken place between the parties. Injury on the side of accused persons has not been explained by the prosecution. The prosecution has not come with clean hands.

On behalf of the State, it is submitted that the petitioner nos. 1 and 2 are named in the F.I.R.

Considering the aforesaid facts and circumstances of the case, let the petitioner nos. 1 and 2 above named, (except petitioner no. 3, namely, Sk. Hamza @ Shekh Hamza) in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Raxual, East Champaran at Motihari, in connection with Ramgarhwa P.S. Case No. 237 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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