

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47207 of 2021

Arising Out of PS. Case No.-174 Year-2021 Thana- BASANTPUR District- Siwan

1. Nasruddin @ Nasruddin Ansari, Son of Rajjak Ansari, Resident of village- Gopalpur Tola Magahi, P.S.- Lakri Nabiganj O.P., District- Siwan.
2. Salahuddin @ Salauddin Ansari, Son of Rajjak Ansari, Resident of village- Gopalpur Tola Magahi, P.S. - Lakri Nabiganj O.P., District- Siwan.
3. Hasmuddin Ansari, Son of Rajjak Ansari, Resident of village- Gopalpur Tola Magahi, P.S. - Lakri Nabiganj O.P., District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Javed Aslam, Advocate
For the Opposite Party/s : Mr. Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-06-2022 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. Javed Aslam, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Basantpur (Lakri Nabiganj O.P.) P.S. Case No. 174 of 2021 for the offences punishable under Sections 323, 341, 324, 307, 379, 354, 504 and 506/34 of the Indian Penal Code.

As per prosecution case, it is alleged that on 06.05.2021, at about 10.30 'o' clock, due to land dispute the



Pattidars of the informant named in the F.I.R. having sword, farsa and spade came there and started abusing and assaulted them. It is further alleged that co-accused Tejuddin gave spade blow, due to which the informant sustained head injury. On hulla being raised, the nephew, brother and daughter-in-law came to rescue him, then accused persons assaulted them and co-accused Rajjak Ansari assaulted his nephew by means of farsa.

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 petitioners and the specific allegation of overt act has been attributed against co-accused Tejuddin and Rajjak Ansari. It is further submitted that there is a counter version of the present case, being Basantpur (Lakri Nabiganj O.P.) P.S. Case No. 175 of 2021, registered by the father of the petitioners. It is also submitted that both the petitioners and the informant are own pattidars and there is land dispute pending consideration between them and a Title Suit No. 86 of 2015 is



going on. It is also submitted that with regard to occurrence, which has taken place on 06.05.2021, the F.I.R. has been instituted on 09.05.2021 and for the delay in lodging the F.I.R., no plausible explanation has been given. It is also submitted that soon after the institution of the present case, again the informant and his persons assaulted the co-accused, due to which another F.I.R., bearing Basantpur (Lakri Nabiganj O.P.) P.S. Case No. 302 of 2021, has been instituted. It is lastly submitted that all these petitioners have got clean antecedents and there was free fight between the parties, due to which both sides have sustained injuries, but the prosecution has failed to explain the injuries sustained on the petitioners and their persons.

On the other hand, learned APP for the State opposes the bail application and submits that there is specific allegation against these petitioners, who have actively participated in the present crime.

Having considered the submissions made on behalf of the parties and taking into consideration the general and omnibus nature of allegation, apart from the fact that there is case and counter case and the present F.I.R. has been instituted after a delay of three days of the occurrence and moreover the specific allegation of assault has been attributed to other co-



accused persons and the occurrence is an outcome of free fight and these petitioners have absolutely 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 Chief Judicial Magistrate, Siwan in connection with Basantpur (Lakri Nabiganj O.P.) P.S. Case No. 174 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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