

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47663 of 2021

Arising Out of PS. Case No.-134 Year-2021 Thana- KOTWA District- East Champaran

1. Bharat Ram, S/O Late Aamcahndra Ram, R/O Village- Ahirwaliya, P.S- Kotwa, District- East Champaran.
2. Prem Kumar Ram, S/O Bharat Ram, R/O Village- Ahirwaliya, P.S- Kotwa, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Rashmi Jha, Advocate
		Mr. Abhishek Kumar, Advocate
For the Opposite Party/s	:	Mr. Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 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 Mrs. Rashmi Jha, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Kotwa P.S. Case No. 134 of 2021 for the offences punishable under Sections 323, 324, 307, 379, 504, 506/34 of the Indian Penal Code.

As per prosecution case, it is alleged that on 29.05.2021 while the informant was closing his shop, all the accused persons including the petitioners armed with iron rod,



Farsa, Lathi and Danda came at his shop and co-accused Rupesh Kumar assaulted him by means of Farsa over his head. It is further alleged that Prem Kumar Ram (petitioner no.2) gave knife blow over his back and petitioner no.1 assaulted the informant with iron rod causing serious injury on his neck and shoulder. It is also alleged that accused persons snatched valuables and cash.

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 allegation against all these accused persons of assaulting the informant, but from the injury report, as contained in Annexure-2 to this application, it is evident that only one lacerated wound has been found over the forehead of the informant, however, the said injury is attributed against co-accused Rupesh Kumar. So far the injuries, which are said to have been inflicted on the back and other portion of the informant are concerned, the same has not been corroborated by the injury report. It is next submitted that in fact prior to the institution of this F.I.R. some altercation took place in between



the informant and petitioner no.2 on account of outraging the modesty of his wife and only in order to save his skin this F.I.R. has been instituted by implicating the name of the petitioners. It is also submitted that the fardbeyan of the informant has been recorded on 30.05.2021, but the F.I.R. has been instituted after a delay of four days i.e. on 03.06.2021 and no explanation of such delay has been given. It is lastly submitted that the petitioners have got clean antecedents and they are ready to give undertaking that they will co-operate in the investigation and will not tamper with the evidences.

On the other hand, learned APP for the State opposes the bail application of the petitioners and submits that there is specific allegation against these petitioners, who have assaulted the informant.

Having considered the submissions made on behalf of the parties and taking into consideration the injury report, which does not corroborate the prosecution case and further the fact that the petitioners have got clean antecedents and they are ready to co-operate in the investigation, 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 Chief Judicial Magistrate, East Champaran, Motihari in connection with Kotwa P.S. Case No. 134 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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