

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70787 of 2021

Arising Out of PS. Case No.-62 Year-2021 Thana- ATHMALGOLA District- Patna

1. Chandan Kumar Son of Arun Singh Resident of Village- Sabnima, P.S.- Athmalgola, District- Patna.
2. Kundan Kumar Son of Arun Singh Resident of Village- Sabnima, P.S.- Athmalgola, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 71313 of 2021

Arising Out of PS. Case No.-62 Year-2021 Thana- ATHMALGOLA District- Patna

1. Bablu Kumar Son of Suresh Singh Resident of Village- Sabnima, P.S.- Athmalgola, District- Patna.
2. Pintu Kumar Son of Suresh Singh Resident of Village- Sabnima, P.S.- Athmalgola, District- Patna.
3. Sanjay Kumar Son of Chandrika Singh Resident of Village- Sabnima, P.S.- Athmalgola, District- Patna.
4. Sudhir Singh Son of Indra Singh Resident of Village- Sabnima, P.S.- Athmalgola, District- Patna.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 70787 of 2021)

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

For the Opposite Party/s : Ms. Pushpa Sinha, APP

(In CRIMINAL MISCELLANEOUS No. 71313 of 2021)

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

For the Opposite Party/s : Ms. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 07-07-2022 These applications have been listed under the heading “For Orders”.



Registry has pointed out several defects in the present applications.

Mr. Manoj Kumar Pandey, learned counsel for the petitioners submitted that the defects are mainly because only e-filing of the applications are permitted by the Court. He submitted that the defects can be removed only after filing of hard copy is permitted. He undertook that even if the applications are heard and disposed of on merit, in due course of time, when the Court would permit filing of hard copy, the defects pointed out by the registry would be removed.

In view of the submissions made by the learned counsel for the petitioners, with consent of the parties, these applications have been taken up for hearing on merit.

In these two applications preferred under Section 438 of the Code of Criminal Procedure, the petitioners have prayed for grant of pre-arrest bail in connection with Athmalgola P.S. Case No.62 of 2021 registered for the offences punishable *inter alia* under Sections 307 and 379 of the Indian Penal Code as well as Section 27 of the Arms Act.

Learned counsel for the petitioners submitted that the instant case is counter blast of Athmalgola P.S. Case No.61 of 2021 instituted on the basis of written report of Dharmendra



Kumar, uncle of the petitioners. He contended that from perusal of the first information report, it would transpire that the petitioners and the informant are close door neighbours and there was animosity between them over the land dispute for a common passage. He contended that though there is an omnibus and general allegation that the petitioners assaulted the members of the prosecution party with *lathi* and *danda*, the order passed by the court below would clearly suggest that the injuries sustained by the members of prosecution party were all simple in nature. The further contention is that the petitioners have clean antecedent and the ingredients of the offences punishable under non-bailable sections are not attracted against them.

On the other hand, learned counsel appearing for the State opposed the prayer for grant of pre-arrest bail to the petitioners. She submitted that two persons, namely, Ranjit Kumar and Ankit Kumar sustained injuries in the alleged incident on account of assault made by the members of the prosecution party. The aforesaid Ranjit Kumar had sustained three injuries out of which two were found simple and opinion in respect of one injury was kept reserved. So far as the injured Ankit Kumar is concerned, he had sustained two simple injuries, but they were caused on vital parts of his body.



Considering the submissions made above, since there is case and counter case and none of the injuries found on the person of the two injured has so far been opined to be grievous, I am inclined to grant pre-arrest bail to the petitioners.

Accordingly, the petitioners abovenamed are directed to be released on bail in the event of their arrest or surrender before the court below on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of ACJM-1, Barh, District-Patna in Athmalgola P.S. Case No.62 of 2021 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

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