

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15811 of 2023

Arising Out of PS. Case No.-269 Year-2022 Thana- GARKHA District- Saran

1. KAMESHWAR RAY Son of Rameshwar Ray R/V- Ismailpur, P.S- Garkha, Dist- Saran
2. Nagendra Ray Son of Rameshwar Ray R/V- Ismailpur, P.S- Garkha, Dist- Saran
3. Devendra Ray Son of Rameshwar Ray R/V- Ismailpur, P.S- Garkha, Dist- Saran
4. Subhash Ray @ Subash Ray Son of Rameshwar Ray R/V- Ismailpur, P.S- Garkha, Dist- Saran
5. Mintu Kumar Son of Nagendra Ray R/V- Ismailpur, P.S- Garkha, Dist- Saran
6. Vikash Kumar Yadav @ Vikesh Kumar Yadav @ Vikesh Kumar Son of Kameshwar Ray R/V- Ismailpur, P.S- Garkha, Dist- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 24-05-2023 Heard learned counsel for the petitioners, Informant
and learned APP for the State.

The petitioners apprehend their arrest in connection with Garkha P.S. Case No. 269 of 2022 for the offence registered under Sections 341, 323, 504, 506, 307 and 379/34 of the Indian Penal Code lodged on 04.05.2022 by the informant, Rajendra Ray.

The prosecution story, in brief, is that one Rajendra



Rai in his '*fardbeyan*' before the police has stated that on 04.05.2022 at about 9.30 A.M., Ram Ishwar Ray, Kameshwar Ray, Nageshwar Ray, Devendra Ray, Subash Ray were putting soil on the disputed land and when he objected to it the accuseds abused using filthy language, caught hold of the informant and on the order of Ram Ishwar Ray, they assaulted him causing injury on head, body and eye as result of which, he fell down.

On '*hulla*', when his wife Saraswati Devi, sister-in-law Sunit Devi, Son Arjun Rai, Nephew Amit Kumar came to his rescue, they too were assaulted by Amit Kumar, Vikesh Kumar, Mintu Kumar, Akhilesh Kumar and wives of Kameshwar Rai, Nagendra Rai and Devendra Rai. In course of assault, Kameshwar Ray assaulted Sunita Devi with '*Farsa*' on head causing injury and his son and nephew also received injury on body while his wife received injury on leg. Further, Mintu Kumar snatched golden chain from the neck of Sunita Devi and Nagendra Ray tore her cloth. With the help of villagers he was brought to the Primary Health Centre, Garkha. Accordingly, the FIR.

The allegation as per the FIR is that petitioner no. 1, Kameshwar Ray giving '*farsa*' blow on the head of Sunita Devi and a categorical statement has been made by the learned



counsel for the petitioner that the injury inflicted by the petitioner no. 1 was found to be simple in nature. So far as other petitioners are concerned, omnibus allegation is there against all of them. Further submission is that without accepting the allegation and/or the outcome of the present petition in view of the fact that the informant side has alleged injuries, the petitioner no. 1 on its own would like to contribute towards the medical assistance of Rs. 15,000/- through Demand Draft issued by the local State Bank of India branch to be submitted before the 'NAZARAT' of concerned Court to be handed over to the informant after checking the credentials.

Learned APP for the State opposes the prayer for bail.

Taking into account the submissions put forward by the learned counsel for the petitioners that the injuries given by petitioner no. 1, Kameshwar Ray on Sunita Devi was subsequently found to be simple in nature and omnibus allegation of assault is on other accuseds, this Court is inclined to grant them privilege of anticipatory bail, subject to payment of Rs. 25,000/- by the petitioner no. 1, as stated above.

However, it is made clear that if the statement regarding injury given by the petitioner no. 1 is found incorrect, the bail order shall become infructuous as against petitioner no.



1, Kameshwar Ray.

Let the petitioners, in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Saran, Chapra in connection with Garkha P.S. Case No. 269 of 2022, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial court itself;

(v) the petitioners shall appear before the concerned police station every fortnight for next six months to mark attendance;

(vi) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for



cancellation of their bail bonds;

(vii) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Jagdish/Neha/-

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