

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29502 of 2023

Arising Out of PS. Case No.-327 Year-2022 Thana- FALKA District- Katihar

1. Mithilesh Singh @ Mithilesh Kumar Singh, Son of Late Raghunandan Singh, Resident of village - Kohwara, P.S. - Falka, Distt. - Katihar
2. Kanhaiya Singh @ Kanhaiya Kumar Singh, Son of Mithilesh Singh @ Mithilesh Kumar Singh, Resident of village - Kohwara, P.S. - Falka, Distt. - Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 14-07-2023 Heard learned counsel for the petitioners and learned counsel for the State.

2. In this present case, the petitioners are apprehending their arrest in connection with Falka (Pothia) P.S. Case No. 327 of 2022, registered on 11.08.2022 for the offences under Sections 147, 149, 341, 323, 307, 504, 506 and 324 of the Indian Penal Code.

3. As per prosecution case, the petitioners and other FIR named co-accused persons, who were variously armed, tried to capture the land belonging to the wife of the younger brother of the informant and started making construction over it. When the informant tried to stop them, he was assaulted with



lathi and *danda*. When the nephew of the informant came for his rescue, co-accused Baban Singh attacked him with sword and at the same time co-accused Baban Singh and Gagan Singh assaulted him with sharp weapon. Another nephew of the informant was attacked with *bhala* by co-accused Gagan Singh. Other co-accused persons were storing construction materials on the disputed land and were involved in making construction. When the villagers assembled, petitioner no. 2 threatened them.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. There is no allegation of any overt act against petitioner no.1 and only allegation against petitioner no.2 is that he threatened the informant and others with life. There is no allegation of assault against the petitioners and further they were not armed with any weapon. Utmost the petitioners are said to be the members of mob. But in the present case they have been made accused as they are the agnates of co-accused Baban Singh and Gagan Singh. In the aforesaid facts and circumstances no offence under Sections 307 and 324 of the I.P.C. is made out against the petitioners and all the offences are bailable in nature. Co-accused Lagan Singh has been granted anticipatory bail by a Co-ordinate Bench vide order dated



17.03.2023 passed in Cr. Misc. No. 63144 of 2022. Petitioners are having clean antecedent.

5. Learned App opposes the prayer for bail submitting that the petitioners were members of unlawful assembly which caused a number of injuries to its victims.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the admitted land dispute and distinct lack of allegation against the petitioners for any specific overt act of serious nature and also considering the grant of anticipatory bail to the co-accused, let the petitioners above named, in the event of their arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty thousand Only) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-III, Katihar/concerned court in connection with Falka (Pothia) P.S. Case No. 327 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioners.



(ii) The petitioners will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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