

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34694 of 2023

Arising Out of PS. Case No.-29 Year-2023 Thana- BANIAPUR District- Saran

-
1. NARAD MAHTO S/O RAMDAYAL MAHTO R/O Village- Beruni Nonia Toli, P.S- Baniyapur, Distt.- Saran.
 2. Lakhan Mahto S/O Narad Mahto R/O Village- Beruni Nonia Toli, P.S- Baniyapur, Distt.- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun, Advocate

For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 24-06-2023 Heard Mr. Arun, learned counsel for the petitioners
and learned APP for the State.

The petitioners are accuseds in connection with Baniapur P.S. Case No. 29 of 2023 registered for the offences under sections 147, 149, 341, 323, 324, 307, 504 and 506 of the Indian Penal Code lodged on 31.01.2023 by the informant, Rakesh Kumar Singh.

As per the prosecution story, the informant Rakesh Kumar Singh lodged this case against seven accused persons including the petitioners alleging that on 27.01.2023 around 7.30 PM., when he along with his nephew, Biru Kumar Singh and two other boys of his village namely, Avinash and Rakesh were going home from Chapra on motorcycle, on the way,



petitioner Narad Mahto stopped their motorcycles. It has been alleged that all the accused persons due to previous enmity started abusing and petitioner Lakhan Mahto caused injury with '*Daab*' on his head and co-accused Rohan Mahto caused injury with '*sword*' on right side of his nose. Co-accused Byas Mahto assaulted with '*iron rod*' causing injury on the jaw of Biru Kumar Singh. When they fell down, all the accused persons started assaulting them with '*Lathi*' causing swelling on left eye of Biru Kumar Singh and injury on his chest.

It has been further alleged that when Avinash and Rakesh tried to escape on motorcycle, co-accused Mala Devi attacked with '*Daab*' causing injury on the head of Avinash but even then they fled away. All the three injured were taken to P.H.C., Baniapur from where they were referred to Sadar Hospital, Chapra and seeing the condition precarious, the informant and injured Biru Singh were referred to P.M.C.H., Patna where Fardbeyan of the informant was recorded on 30.01.2023, by police during treatment. Accordingly, the FIR.

Learned Counsel for the petitioner submits that the scuffle took place between the parties resulting into FIR lodged by both of them, the FIR of the petitioner being earlier one. It is his further submission that even going by the FIR, the allegation



of assault on the petitioner is of injuring the head of the informant, Rakesh Kumar Singh whereas one, Rohan Mahto assaulted by '*sword*' causing injury on his head and nose. He further took this Court to the Injury Report of Rakesh Kumar Singh to show that the only injury that has been found to be grievous in nature relates to the nose which has not been attributed to him, rather to Rohan Mahto.

Learned APP for the State opposes the prayer for bail stating that all of them assaulted, causing injuries to the informant and his associates.

Taking into account the submissions put forward by the learned Counsel for the petitioner as also the fact that the allegation of assault on nose has been attributed to Rohan Mahto which has been found to be grievous in nature, he is in custody since 18.03.2023 (as stated in paragraph-9 of the bail application), this Court is inclined to extend him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of the learned C.J.M., Saran in connection with Baniapur P.S. Case No. 29 of 2023, subject to the following conditions:-



(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *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 bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next one year to mark attendance;

(iv) the petitioner 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 his bail bonds;

(v) the petitioner 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.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Neha/-

U		T	
---	--	---	--

