

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37824 of 2023

Arising Out of PS. Case No.-170 Year-2022 Thana- ARA MUFFSIL District- Bhojpur

1. Om Kant Tiwari, Son of Janardan Tiwari, Resident of Village - Chitkundi,
Police Station - Ara Muffasil, District - Bhojpur.
2. Rajani Kant Tiwari, Son of Birendra Tiwari, Resident of Village - Chitkundi,
Police Station - Ara Muffasil, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Dr. Anjani Pd. Singh, Advocate
For the Opposite Party/s : Mr. Raj Kishor Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 27-07-2023 Heard Dr. Anjani Prasad Singh, learned counsel
appearing on behalf of the petitioners and the learned APP for
the State.

2. The petitioners were apprehending their arrest in
connection with Ara Muffasil P.S. Case No. 170 of 2022
registered for the offences punishable under Sections 147,
148, 149, 341, 323, 324, 307 of the Indian Penal Code.

3. It is alleged that on account of a land dispute, all
the FIR named accused persons including the petitioners
armed with deadly weapons, surrounded the informant and



started assaulting. On *halla* being raised, his son and other family members came to rescue him thereupon the accused persons also assaulted them. It is specifically alleged that petitioner no.1, Om Kant Tiwari assaulted the son of the informant, Krishna Tiwari by means of iron rod due to which he sustained head injury. Petitioner no.2, Rajani Kant Tiwari resorted to fire upon Krishna Tiwari but fortunately, the same did not hit. Further allegation have been levelled against other accused persons of assault and snatching of cash amount.

4. Learned counsel appearing on behalf of the petitioners submits that admittedly, there is a land dispute between the parties which resulted into case and counter case being Ara (M) P.S. Case No.169 of 2022, lodged by co-accused Janardan Tiwari against the informant and his family members. He further submits that on account of the dispute, a free fight has taken place which resulted into injuries to the persons of both the sides, however, the prosecution has failed to explained the injuries sustained to the persons of the petitioner's side. He next submits that so far the injury sustained to Krishna Tiwari is concerned, the same has been found to be simple in nature. In this regard, a specific statement has been made in paragraph 12 of the petition. He



lastly submits that co-accused persons having identical allegation have been allowed the privilege of anticipatory bail by learned Coordinate Bench of this Court in Cr. Misc. No.60182 of 2022 vide order dated 23.02.2023, the copy of which is marked as Annexure-3.

5. On the other hand, learned counsel for the State vehemently opposes the pre-arrest bail application of the petitioner and submits that specific allegation has been levelled against the petitioners with regard to their active participation.

6. Regard being had to the submissions made on behalf of the parties and considering the genesis of occurrence and the nature of injury coupled with the fair antecedent of the petitioners and the fact that the co-accused persons have been allowed privilege of anticipatory bail, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four 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 learned Additional Chief Judicial Magistrate-VII, Bhojpur at Ara, in connection with Ara Muffasil P.S. Case No. 170 of 2022, subject to the



condition as laid down under Section 438 (2) of the Cr.P.C.
with further condition that one of the bailors shall be the
own/close family members of the petitioner.

(Harish Kumar, J)

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