

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48151 of 2023

Arising Out of PS. Case No.-323 Year-2022 Thana- JANDAHA District- Vaishali

1. Shivam Kumar @ Shivam Bharti Son Of Jaswant Singh @ Jaswant Kumar Singh, Resident Of Village Mahipura, Police Staion Jandaha District Vaishali
2. Pankaj Kumar Son Of Mahendra Sahni Resident Of Village- Yadunandpur, PS- Jandaha, District- Vaishali
3. Ravi Kumar @ Ravi Kumar Sahni Son of Baiju Sahani Resident Of Village- Yadunandpur, PS- Jandaha, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar @ Vijay Kr. Singh, Adv.

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2023 Heard Mr. Vijay Kumar @ Vijay Kr. Singh, learned
counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest in connection with Jandaha P.S. Case No. 323 of 2022 registered for the offences punishable under Sections 323, 504, 506, 341, 307, 379 and 385/34 of the Indian Penal Code.

3. Allegedly while the informant was ploughing his field by his tractor, in the meantime, all the FIR named accused persons including the petitioners came there and started abusing and assaulting him by means of belt, fist and kick and also



snatched Rs. 10,000/- and a golden chain. On protest being made, they threatened him to lit his tractor on fire and demanded an extortion of Rs. 50,000/-. When the informant narrated the entire incidents to the father of co-accused Shivam Kumar, he also abused him.

4. Learned counsel for the petitioners submits that the omnibus allegation has been levelled against all the family members over the land dispute. He further submits that the injury report only suggests pain and swelling on head, and as such, considering the nature of allegation and the injury report, no case, much less, under Section 307 of the Indian Penal Code is made out. Further so far Section 379 of the Indian Penal Code is concerned, that has been added purposely with a view to make it non-bailable. He next submits that the alleged occurrence took place on 27.10.2022 and the FIR has been instituted after two days of the occurrence on 29.10.2022 and no explanation has been given for the said delay. He also submits that so far the petitioner no.1 is concerned, he bears one criminal antecedent whereas petitioners no.2 and 3 have fair antecedent.

5. On the other hand, learned counsel for the State opposes the bail application and submits that the petitioners had



actively participated in the crime and, moreover, the petitioner no.1 is named in a grievous offence and in case his prayer would be allowed, he would become more embolden to indulge in such type of crime in future also.

6. Regard being had to the submissions made on behalf of the parties and considering the omnibus nature of allegation and the delay in lodging of the FIR, apart from the fair antecedent of the petitioners no.2 and 3, they are directed to 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 bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned J.M.1st Class, Vaishali at Hajipur in connection with Jandaha P.S. Case No. 323 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 petitioners.

7. So far the petitioner no.1 is concerned, looking to his criminal antecedent in a serious offence, this Court is not persuaded to enlarge him on pre-arrest bail. Accordingly, his prayer is rejected.

8. However, if the petitioner no.1 surrenders and seeks



regular bail in the court below, his prayer shall be considered on its own merit without being prejudiced in any manner by the present order.

(Harish Kumar, J)

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