

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54256 of 2023

Arising Out of PS. Case No.-145 Year-2023 Thana- BHAGWANPUR District- Kaimur
(Bhabua)

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1. Upendra Bind S/O Kishun Bind R/O Village- Shahpur, Ps. Bhagwanpur, Dist. Kaimur At Bhabua
 2. Haridwar Mushahar @ Haridar Mushar S/O Krit Mushahar R/O Village- Kudrwa, Ps. Bhagwanpur, Dist. Kaimur At Bhabua
 3. Mukesh Mushahar S/O Haridwar Mushahar @ Haridar Mushar R/O Village- Kudrwa, Ps. Bhagwanpur, Dist. Kaimur At Bhabua
 4. Dinesh Mushahar @ Dinesh Mushar S/O Haridwar Mushahar @ Haridar Mushar R/O Village- Kudrwa, Ps. Bhagwanpur, Dist. Kaimur At Bhabua
 5. Banka Mushahar S/O Ramkrit Mushahar R/O Village- Kudrwa, Ps. Bhagwanpur, Dist. Kaimur At Bhabua

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Tribhuwan Narayan, Advocate
For the State	:	Mr. Sanjay Kumar Tiwary, APP
For the Informant	:	Mr. Kumar Sunil, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 08-09-2023 Heard learned counsel for the petitioners and learned
APP for the State as well as learned counsel for the informant.

2. In this present case, the petitioners are apprehending their arrest in connection with Bhagwanpur P.S. Case No. 145 of 2023, registered for the alleged offences under Sections 341, 323, 324, 354, 452, 379, 504, 506 and 307/34 of the Indian Penal Code.

3. As per prosecution case, in the background of quarrel between children, the petitioners who were armed with



lathi and *danda*, entered into the house of the informant and assaulted the informant causing fracture of her arm. Further allegation against petitioner no.1 is that he tried to pull the *saree* and blouse of the informant and when her son tried to save her, petitioner no.1, namely, Upendra Bind hit him on his head causing injury to him. They took away Rs. 10,000/- and some ornaments worth Rs. 25,000/- from the house of the informant.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. The present case is counter blast of Bhagwanpur P.S. Case No. 147 of 2023 registered under Sections 341, 323, 325, 504 and 506/34 of I.P.C., lodged by petitioner no.1, namely, Upendra Bind against the informant and his family members as the husband of the informant and others took away the articles of Nal-Jal Scheme and on this account the informant side assaulted the petitioners. Learned counsel further submits that except for petitioner no.1 all allegation against the other petitioners are general and omnibus. There is allegations against petitioner no.1 that he hit on the head of the son of the informant but there is no injury on the head of the son of the informant and injury report of the son of the informant shows only headache, chest pain, lacerated wound on left arm and occasional loss of



consciousness. So allegation of striking the son of the informant with *lathi* on his head is false. Moreover, injuries are stated to be simple in nature. There is no injury report of the informant so allegation of causing injuries to the informant are not believable. Allegation of outraging the modesty of the informant is false and concocted. There is no ingredient of Section 307 of IPC in this case as there was no attempt of life of any person. Allegation of theft is merely a super-additon.

5. Learned APP as well as learned counsel for the informant vehemently oppose the prayer for anticipatory bail made on behalf of the petitioners. Learned counsel for the informant submits that specific allegation against the petitioners is that petitioner no.1 tried to outrage the modesty of the informant and petitioner no.1 is having criminal antecedent. At this stage, learned counsel for the petitioner submits that it is an old case for the year 2011 under the Excise act and the same has been mentioned in paragraph no.3 of the present petition.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the case and counter case between the parties and probability of false implication, 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-V, Kaimur at Bhabua/concerned court in connection with Bhagwanpur P.S. Case No. 145 of 2023, 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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