

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50779 of 2023

Arising Out of PS. Case No.-446 Year-2022 Thana- BAHERA District- Darbhanga

1. Basirul Haque Son Of Late Abdul Hakim Resident Of Village - Kajiyana, Police Station - Bahera, District - Darbhanga
2. Md. Meharaw Son Of Basiraul Haque @ Basirul Haque Resident Of Village - Kajiyana, Police Station - Bahera, District - Darbhanga

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Manish Kumar No. 1, Advocate
For the State	:	Mr. Umesh Lal Verma, Advocate
For the Informant	:	Ms. Kanchan Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-08-2023 Heard learned counsel for the petitioners, learned counsel for the informant and learned APP for the State.

2. The petitioners in the present case are seeking pre-arrest bail in connection with Bahera P.S. Case No. 446 of 2022 registered for the offenses punishable under Sections 147, 341, 323, 307, 308, 379, 504, 427, 354(B) and 448 of the Indian Penal Code. The petitioners have one criminal antecedent.

3. As per the prosecution story, on 01.10.2022 at about 07:30 P.M. fifteen FIR named accused persons armed with lathi and danda came to the courtyard of the informant and started abusing him. Md. Basirul Haque ordered to kill the informant whereafter all the accused persons started assaulting him by lathi and danda. Md. Hasnain assaulted the informant by means of



danda due to which he sustained head injury. The accused persons also assaulted one lady named Khusmudi and the uncle of the informant when they came to rescue him. They have also stolen some valuable ornaments from the house of the informant.

4. Learned counsel for the petitioners submits that the present case is a counter case of Bahera P.S. Case No. 447 of 2022 which has been lodged by one Md. Meharaw (petitioner no. 2). The informant in the said case was assaulted by Md. Nematullah causing injury to him.

5. Learned counsel submits that in the alleged occurrence from the informant side, two persons are said to have received injuries, however, it will appear that in the first part of the FIR, fifteen persons have been named and it is alleged that they came lashed with lathi and danda and they all had assaulted the informant whereafter he fell down and thereafter Md. Hasnaian assaulted him on his head by iron rod.

6. It is submitted that so far as the informant is concerned, he has received only two injuries, the first is a lacerated wound on the right side of forehead and second is tenderness on the right side of chest and both are found simple in nature. It is submitted that apparently the attempt is to implicate a large number of persons in the present case and the prosecution story does not get support from the injury report.



7. Learned counsel further submits that similarly the another injured namely Md. Enaytullah has also received a minor injury of linear bruise on his left forearm which is simple in nature.

8. It is submitted that there is a long dispute between the families of the informant and there are three cases pending against the informant and his family members. It is further submitted that the petitioner no. 1 is said to be the order-giver of the alleged occurrence and the petitioners similarly situated have been granted privilege of anticipatory bail by this Court in Cr. Misc. No. 50702 of 2023.

9. Learned counsel for the informant has opposed this application. It is submitted that the petitioners have indulged in the alleged occurrence and that the informant's family is residing outside the village but the petitioners are indulged in assaulting the informant when he comes in the village.

10. Having regard to the fact that the petitioner no. 1 is said to be the order-giver of alleged occurrence and this Court has granted privilege of anticipatory bail to the petitioners similarly situated in Cr. Misc. No. 50702 of 2023 for the reasons stated therein, this Court directs that in case of their arrest or surrender within a period of four weeks from today, the petitioners above named shall be enlarged on bail in connection with Bahera P.S.



Case No. 446 of 2022 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-1st, Benipur, Darbhanga, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

11. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

12. This application stands disposed of.

(Rajeev Ranjan Prasad, J)

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