

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53915 of 2022

Arising Out of PS. Case No.-403 Year-2020 Thana- AMNAUR District- Saran

1. BIRENDRA RAI S/O LATE SHIVNATH RAI Resident of village- Vishunpur Piprahi, P.S.- Amnour, District- Saran at Chhapra.
2. GUNJESH KUMAR S/O BHUNESHWAR RAI Resident of village- Vishunpur Piprahi, P.S.- Amnour, District- Saran at Chhapra.
3. RAKESH KUMAR S/O BIRENDRA RAI Resident of village- Vishunpur Piprahi, P.S.- Amnour, District- Saran at Chhapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Advocate

For the Opposite Party/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 23-01-2023 Heard learned counsel for the petitioners and the State.

The petitioners apprehend their arrest in connection with Amnour P.S. Case No. 403 of 2020 for the offence registered under Sections 341, 323, 324, 307, 427, 379, 504 and 506/34 of the Indian Penal Code.

As per the prosecution story, the informant alleged that he along with his brother, Praveen Kumar had gone to his sister's place and saw the accused persons assaulting his brother-in-law, Rajiv Ranjan @ Shilesh Raki where it is alleged that petitioner no, 2, Gunjesh Kumar and accused Manish Kumar pointed country made pistol on the head of his brother-in-law for taking some signature in stamp paper. Further, upon



his refusal to do so, they assaulted him. The specific allegation is against the petitioner no. 3, Rakesh Kumar that he gave 'rod' blow on the head. Although he was able to save himself, due to subsequent indiscriminate blow by him, on his brother-in-law suffered injuries on the nose, head and back causing fracture of the nose. They also damaged the motorcycle of the informant where allegation against the petitioner no.1, Birendra Rai is of snatching gold chain.

Learned counsel for the petitioners submit that it is a matter of case and counter case, their case being earlier to the present FIR and injuries have been sustained by both sides but has been exaggerated.

Learned APP for the State, on the other hand, draws the attention of this Court to the observation of the learned Sessions Judge to show that one of the injury was found to be grievous in nature which according to him is attributed to petitioner no.3, Rakesh Kumar.

Taking into account the allegation against the petitioner no.3 Rakesh Kumar is of giving repeated blow on the person of the informant's brother-in-law causing fracture on his nose, this Court is not inclined to grant him privilege of anticipatory bail which is rejected.



So far as petitioners no. 1&2, namely, Birendra Rail and Gunjesh Kumar are concerned, they were part of the unlawful assembly and omnibus allegation of assault is/are attributed to them, do not have criminal antecedent and they will be cooperating in the investigation and will ultimately face the trial, this Court as such, inclined to grant them privilege of anticipatory bail.

Let the petitioners no. 1&2, namely, Birendra Rai and Gunjesh Kumar, in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM-IX, Saran at Chapra in connection with Amnour P.S. Case No. 403 of 2020, subject to condition as laid down under Section 438(2) of the Cr.P.C with further condition that :

(i) the petitioner (s) shall co-operate in the investigation and made himself available to the police as and when required.

(Rajiv Roy, J)

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