

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55246 of 2023

Arising Out of PS. Case No.-225 Year-2021 Thana- BIHPUR District- Bhagalpur

1. Subodh Kumar Mishra Son Of Late Hari Govind Mishra Resident Of Village - Bhramarpur, P.S. - Bihpur, District - Bhagalpur
2. Mahesh Mishra Son Of Hari Govind Mishra Resident Of Village - Bhramarpur, P.S. - Bihpur, District - Bhagalpur
3. Sajjan Kumar Mishra Son Of Subodh Kumar Mishra Resident Of Village - Bhramarpur, P.S. - Bihpur, District - Bhagalpur
4. Sharawan Kumar Mishra Son Of Subodh Kumar Mishra Resident Of Village - Bhramarpur, P.S. - Bihpur, District - Bhagalpur
5. Rupak Kumar Mishra @ Fully @ Kumar Rupak Son Of Subodh Kumar Mishra Resident Of Village - Bhramarpur, P.S. - Bihpur, District - Bhagalpur
6. Rajeev Kumar Mishra @ Pintu Mishra Son Of Subodh Kumar Mishra Resident Of Village - Bhramarpur, P.S. - Bihpur, District - Bhagalpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate.
For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 13-09-2023 Heard Mr. Subodh Kumar Jha, learned counsel for the

petitioners and learned APP for the State.

2. The Petitioners are apprehending their arrest in connection with Bihpur P.S. Case No.225 of 2021, registered for the offences punishable under Sections 341, 323, 447, 307, 379, 427, 34 of the Indian Penal Code.

3. Allegedly, while the informant was going on his motorcycle along with others, in the meanwhile, all the FIR



named accused persons including the petitioners armed with lathy and iron rod assaulted the informant and others mercilessly, due to which they sustained serious injuries. It is further alleged that they have also snatched valuables.

4. Learned counsel appearing on behalf of the petitioners submits that from the narration of the FIR, it is evident that the occurrence has arisen on account of a land dispute resulting into the institution of the case and counter case. He further submits that there is counter version of the present case being Bihpur P.S. Case No. 226 of 2021 instituted by the petitioner no.1 against the informant and others. He next submits that there is no specific allegation of any overt act against the petitioners and considering all these facts, the police, after investigation has not submitted charge-sheet under Section 307 of the Indian Penal Code and the petitioners have been allowed police bail, however, the learned Jurisdictional Court differing with the police report has taken cognizance under Section 307 of the IPC, which necessitated the filing of the present anticipatory bail application. He also submits that in fact on account of a free fight the persons of both the sides have sustained injuries, however, it has not been alleged that who has caused the injuries to the injured. He next submits that the



petitioner no1 is aged about 72 years, whereas petitioner no.2 is a man of 62 years, who are the karta of their families and they have also been made accused which also suggested the false implication of all the family members. He lastly submits that the petitioners are men of fair antecedent, and they undertake that they will not indulge in such type of crime in future and will cooperate in the investigation and the proceedings of the Court.

5. On the other hand learned APP for the State vehemently opposes the bail application and submits that three persons have sustained grievous injuries, as is evident from the impugned order.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the police after investigation has not found the case true under Section 307 of the IPC and they have been allowed privilege of police bail during the investigation, coupled with the fair antecedent and the case and counter case, 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 bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate- I Class, Naugachia,



Bhagalpur in connection with Bihpur P.S. Case No.225 of 2021, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure with further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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