

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58627 of 2023

Arising Out of PS. Case No.-55 Year-2023 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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1. Rajesh Kumar @ Fucha (male), aged about- 38 years, son of Munna Singh @ Sanjay singh
 2. Raushan Kumar @ Magha (male), aged about 30 years, son of Chunna Singh @ Rajib Kumar
 3. Chunna Singh @ Rajib Kumar (male), aged about- 52 years, son of Ram Babu Singh
All resident of village- Mohanpur, P.S. Begusarai Muffasil, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Pushpendra Kumar Singh, Advocate
For the Opposite Party/s :	Mr. Sandip Kumar Gautam, Advocate
	Mr. Choubey Jawahar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 06-12-2023 Heard Mr. Pushpendra Kumar Singh, learned counsel appearing on behalf of the petitioners; Mr. Sandip Kumar Gautam, learned counsel appearing on behalf of the informant and Mr. Choubey Jawahar, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Begusarai Muffasil P.S. Case No. 55 of 2023 dated 02.02.2023 registered for the offence punishable under Sections 341, 323, 307, 387, 504 and 506/34 of the Indian Penal Code.

3. As per the allegation made in the FIR, accused persons named therein including the petitioners had assaulted the informant and his uncle brutally with a common intention to



kill them.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners are innocent and have falsely been implicated in the present case. There is general and omnibus allegation has been levelled against the petitioners. Learned counsel further submitted that there are altogether seven named accused in the FIR and in absence of any specific allegation of assault against these petitioners, the petitioners can not be held liable that the petitioners are the one, who had assaulted the uncle of the informant on his head. Learned counsel further submitted that he has given information in paragraph no. 3 of the bail application that there are five criminal cases are pending against the petitioner no. 1 and two criminal cases are pending against the petitioner no. 3, in which, they are on bail. Petitioner no. 2 has clean antecedent. He further submitted that pendency of several criminal cases cannot be a ground of rejection of the bail of petitioners no. 1 and 3. On these grounds, petitioners seek to be released on pre-arrest bail.

5. Mr. Sandip Kumar Gautam, learned counsel appearing on behalf of the informant submitted that the petitioners no. 1 and 3 have criminal antecedents and they will be nuisance to the society. He further submitted that the injury



sustained by the uncle of the informant is reserved and the petitioners do not deserve to be released on pre-arrest bail.

6. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

7. Having heard the rival submissions made on behalf of the parties, as well as, considering the nature of allegation made in the FIR that all the accused persons named therein, with a common intention are alleged to have been assaulted the informant and his uncle, due to which, the uncle of the informant had sustained head injury and opinion of the doctor is reserved. Five criminal cases are pending against petitioner no. 1 and two criminal cases are pending against the petitioner no. 2, in which they are on bail. So far as petitioner no. 2 is concerned, he has clean antecedent and general and omnibus allegation has been levelled against him and in absence of any specific allegation of assault, I am of the opinion that petitioner no.2 has, *prima facie*, made out a case to be released on pre-arrest bail.

8. The petitioner no. 2, namely, Raushan Kumar @ Magha, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs.



25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai, in connection with Begusarai Muffasil P.S. Case No. 55 of 2023 dated 02.02.2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

9. So far as petitioners no. 1 and 3 are concerned, in view of the material gathered from the case diary, it appears that the injury of the uncle of the informant has been kept reserved. The petitioners no. 1 and 3 do not have clean criminal antecedents, they are directed to surrender before the learned District Court within a period of three weeks and file regular bail application to seek bail. Learned District Court is directed to call for the injury report of the injured person including the informant and if it is found that the injury sustained by the uncle of the informant is simple in nature and not fatal on the basis of the material available on record, the District Court may proceed to consider to release the petitioner on regular bail in accordance with law.

10. Accordingly, the present bail application is disposed of.

(Purnendu Singh, J)

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