

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70105 of 2023

Arising Out of PS. Case No.-84 Year-2023 Thana- GOPALPUR District- Gopalganj

1. SITA DEVI WIFE OF SARAL RAM RESIDENT OF VILLAGE - DHEBUWA (DHEBAWA), BANKATA, P.S. - GOPALPUR, DISTRICT - GOPALGANJ
2. MANSA KUMARI @ MANISHA KUMARI DAUGHTER OF SARAL RAM RESIDENT OF VILLAGE - DHEBUWA (DHEBAWA), BANKATA, P.S. - GOPALPUR, DISTRICT - GOPALGANJ
3. SARAL RAM SON OF LATE VIDYARTHI RAM RESIDENT OF VILLAGE - DHEBUWA (DHEBAWA), BANKATA, P.S. - GOPALPUR, DISTRICT - GOPALGANJ
4. MRITUNJAY RAM @ MRITUNJAY KUMAR SON OF SARAL RAM RESIDENT OF VILLAGE - DHEBUWA (DHEBAWA), BANKATA, P.S. - GOPALPUR, DISTRICT - GOPALGANJ

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Javed Aslam, Adv.

For the Opposite Party/s : Mrs.Madhuri Lata, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

- 2 02-11-2023 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.
2. The petitioners are apprehending their arrest in connection with Gopalpur P.S. Case No. 84 of 2023 registered for the offences punishable under Sections 341, 323, 324, 307, 504, 506/34 of the Indian Penal Code.



3. As per prosecution case, due to previous land dispute, petitioners and other came at the door of the informant and started abusing him and when informant made protest, they assaulted the informant. When informant's mother came to rescue, she was also assaulted by them. It is further alleged that petitioner no. 4 assaulted Birendra Ram by means of rod as a result of which he sustained injury on the head. It is further alleged that petitioners no. 4 and 3 also assaulted Raj Kali Devi by means of lathi. Further petitioner no. 4 assaulted Raj Kali Devi by means of rod as a result of which she sustained injury on her head. It is also alleged that informant's mother also sustained injury in the said occurrence.

4. Learned counsel for the petitioners submits that petitioners bear no criminal antecedent. Petitioners and informant's side are agnates. There is land dispute between both sides. He further submits that from perusal of the FIR, it is manifest that occurrence took place due to previous land dispute and in the cases of land dispute, facts are generally exaggerated. As per FIR, there is general, vague and omnibus allegation against the petitioners, except petitioner no. 4. He further submits that there is allegation of assaulting Raj Kali Devi by means of rod against petitioner no. 4 and there is also allegation



of assaulting Raj Kali Devi against petitioner no. 4 and 3 by means of lathi but the doctor only found pain in whole body of Raj Kali Devi and as per injury report of Raj Kali Devi, the nature of injury is simple, caused by hard and blunt substance, as mentioned in para 11 of the petition, which clearly falsifies the story of prosecution. He further submits that though the version of FIR speaks that informant's mother also sustained injury in the said occurrence but there is no injury report of informant's mother on record, as mentioned in para 9 of the petition, which also falsifies the story of prosecution. He further submits that from perusal of injury report of injured, it appears that all the injuries are simple in nature. There is no repetition of blow by petitioner no. 4 against Birendra Ram which is clear from perusal of FIR itself. There is counter version of the case lodged by petitioner no. 1 Sita Devi who is the wife of petitioner no. 3. From perusal of the FIR, it appears that there is delay of two days in lodging the FIR and no plausible explanation has been given regarding the said delay. In the light of given facts and circumstances of the case, false and fabricated story cannot be ruled out. No offence is made out under Section 307 and other allied sections of the IPC, as mentioned in the FIR.

5. The learned A.P.P. for the State opposes the prayer



for anticipatory bail of the petitioners.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent of petitioners, argument advanced on behalf of both sides and also taking into consideration the material available on record, the petitioners above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Gopalganj in connection with Gopalpur P.S. Case No. 84 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Alok Kumar Pandey, J)

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