

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8706 of 2024

Arising Out of PS. Case No.-882 Year-2023 Thana- DEHRI TOWN District- Rohtas

1. Kamla Devi W/o Pappu @ Binay Prasad Gupta @ Binay Kumar Gupta @ Vinay Kumar Gupta R/o Mohalla - New Siddhauri, ward no. 04, P.S. - Dalmiyanagar, Distt. - Rohtas
2. Pappu @ Binay Prasad Gupta @ Binay Kumar Gupta @ Vinay Kumar Gupta Son of Late Ram Narayan Sao R/o Mohalla - New Siddhauri, ward no. 04, P.S. - Dalmiyanagar, Distt. - Rohtas
3. Raushan Kumar @ Anuj Kumar Son of Pappu @ Binay Prasad Gupta @ Binay Kumar Gupta @ Vinay Kumar Gupta @ Vinay Gupta R/o Mohalla - New Siddhauri, ward no. 04, P.S. - Dalmiyanagar, Distt. - Rohtas
4. Nutan Devi W/o Ajay Kumar Gupta @ Ajay Prasad Gupta R/o Mohalla - New Siddhauri, ward no. 04, P.S. - Dalmiyanagar, Distt. - Rohtas
5. Ajay Prasad Gupta @ Ajay Kumar Gupta Son of Late Ram Narayan Sao R/o Mohalla - New Siddhauri, ward no. 04, P.S. - Dalmiyanagar, Distt. - Rohtas
6. Ankit Kumar @ Sanni Kumar Son of Ajay Prasad Gupta @ Ajay Kumar R/o Mohalla - New Siddhauri, ward no. 04, P.S. - Dalmiyanagar, Distt. - Rohtas
7. Anshu Kumar @ Saurabh Kumar S/o Ajay Prasad Gupta @ Ajay Kumar Gupta R/o Mohalla - New Siddhauri, ward no. 04, P.S. - Dalmiyanagar, Distt. - Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Singh, Sr. Adv. Mr. Bhaskar Shankar, Adv.
For the State	:	Mr. Bharat Bhushan, A.P.P.
For the Informant	:	Mr. Ajay Kumar Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 16-04-2024 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel appearing on behalf of the informant.

2. In the present case, the petitioners are apprehending their arrest in connection with Dehri (Dalmiyanagar) P.S. Case No 882 of 2023, registered on 02.11.2023 for the offences under Sections 307, 354(B), 379, 323, 341, 504, 506, 147, 149 and 34

of the Indian Penal Code.

3. As per the prosecution case, the petitioner and other co-accused persons under a conspiracy assaulted the informant and family members with *lathi*, rod and other weapons and also took away Rs.35,000/- from the counter which was sale proceed. They also tried to commit rape with the daughters of the informant.

4. Learned senior counsel appearing on behalf of the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. There is general and omnibus allegation of assault with *lathi*, *danda* and rod and taking of money from the counter. For the same occurrence petitioner no. 5 has lodged Dehri (Dalmiyanagar) P.S. Case No. 883 of 2023 which has been registered under Sections 147, 148, 149, 325, 506 and 34 of the Indian Penal Code. The petitioner no. 5 received injury on his hand and got a fracture.

5. Learned senior counsel appearing on behalf of the petitioners further submits that both sides are members of the same family and informant is own *bhabhi* of petitioner no. 2 and 5. and there is land dispute between them. The dispute is over the house in which the informant and petitioner nos. 4, 5, 6 & 7 have been residing. But the land was purchased by the mother of

the husband of the informant as well as petitioner nos. 2 & 5 and the said land was given to petitioner no. 5 by way of will for which a probate case is pending before the learned A.D.J-5, Rohtas at Sasaram.

6. The injury reports of the victims show only one injury which falsifies the allegation of assault of seven persons. Moreover, the injuries are all stated to be simple and lacerated. The allegation of admitted rape is not believable. From the facts of the case it is apparent that no case under Section 307 of Indian Penal Code is made out and allegations under Section 354(B) and 379 of the Indian Penal Code are ornamental. Petitioners are having criminal antecedent of one case and supplementary affidavit in this regard has been filed for correction in paragraph no. 3 of the main petition.

7. Learned A.P.P. appearing for the State and learned counsel appearing on behalf of the informant vehemently oppose the submission made on behalf of the petitioners. Learned counsel for the informant submits that petitioner side is numerically stronger and they threatened and assaulted the informant side and caused injuries to all the members of the family of the informant and earlier also assault was made by the petitioners.

8. Having regard to the fact and circumstances and submission made on behalf of the parties and considering the background of property dispute and case and counter case between the parties and further considering simple and non-serious nature of injuries, let the petitioners above named, in the event of their arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Dehri, Rohtas in connection with Dehri (Dalmiyanagar) P.S. Case No 882 of 2023, subject to the condition laid down under Section 438(2) of the code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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