

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8713 of 2024

Arising Out of PS. Case No.-194 Year-2023 Thana- PATEPUR District- Vaishali

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1. Gautam Mishra @ Puttu S/o- Ram Babu Mishra R/o- Ward No.- 1, Bazidpur Kusahi, P.S.- Patepur, Vaishali, Bihar- 843110.
 2. Gaurav Mishra @ Chittu S/o- Ram Babu Mishra R/o- Ward No.- 1, Bazidpur Kusahi, P.S.- Patepur, Vaishali, Bihar- 843110.
 3. Ram Babu Mishra S/o- Late Bisundev Mishra R/o- Ward No.- 1, Bazidpur Kusahi, P.S.- Patepur, Vaishali, Bihar- 843110.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Piyush Kumar Pandey, Advocate Ms. Aditi Shahi, Advocate
For the Opposite Party/s	:	Mr. Ram Naresh Ray, APP
For the informant	:	Mr. Kumar Vikram, Advocate Mr. Avinash Chandra, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 220-02-2024
1.

Heard learned counsel appearing on behalf of the petitioners, learned Additional Public Prosecutor appearing on behalf of the State and learned counsel appearing on behalf of the informant.
2.

The accused/petitioners are named in F.I.R. and apprehending their arrest in connection with Patepur P.S. Case No. 194 of 2023 (GR No. 4107/23), registered for the offences punishable under Sections 341, 342, 323, 307, 379, 506/34 of the Indian Penal Code.
3.

The allegation against above named petitioners is to



assault informant and family members by using *farsa* and butt of pistol, causing head and bodily injuries having intention to cause their death, where occurrence is arises out of land dispute.

4. Learned counsel appearing on behalf of the petitioners submitted that through FIR, it is alleged that petitioner no. 1 assaulted informant by *farsa*, which caused head injuries. It appears from the injury report that said injury is single and simple and as such, it can be gathered safely that petitioner no. 1 was not under intention to cause death of informant, which is a prime consideration to made out a *prima facie* case under Section 307 of the Indian Penal Code. It is further submitted that petitioner no. 2 alleged to assault by butt of pistol, which clearly negates intention to cause death on its face, whereas there is no allegation regarding assault against petitioner no. 3, rather he was implicated with allegation of theft as to take out cash of Rs. 10,000/- from the pocket of the informant. While concluding the argument, it is submitted that occurrence is free fight in nature, where for the same set of occurrence a case bearing Patepur P.S. Case No. 197 of 2023 was lodged against the informant side and as such, it cannot be said that petitioners were under intention to cause death.

5. Learned APP, duly assisted by learned counsel Mr.



Kumar Vikram, appearing on behalf of the informant, while opposing the prayer of bail relied upon the photographs of injuries and submitted that though injury was opined as simple but it is not looking simple in nature, as it appears a deep wound, causing heavy bleeding.

6. Considering the aforesaid facts and circumstances and by taking note of nature of injury which is simple, where assault is also single, accordingly, all above named petitioners, in the event of their arrest or surrender before the learned trial Court, within a period of four weeks of the order, are directed to be released on bail furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Hajipur at Vaishali/concerned Court, where the case is pending in connection with Patepur P.S. Case No. 194 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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