

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15146 of 2024

Arising Out of PS. Case No.-275 Year-2014 Thana- BIBHUTIPUR District- Samastipur

1. Mahendra Mahto S/O Asharfi Mahto R/O Village- Phulwariya, Ps.- Bibhutipur, Dist- Samastipur.
2. Amarjeet Mahto S/O Mahendra Mahto R/O Village- Phulwariya, Ps.- Bibhutipur, Dist- Samastipur.
3. Sonu Kuamr S/O Mahendra Mahto R/O Village- Phulwariya, Ps.- Bibhutipur, Dist- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-03-2024 Heard Mr. Binod Kumar Sinha, learned counsel for the petitioners and Mr. Umesh Lal Verma, learned Additional Public Prosecutor for the State.

2. Learned counsel for the petitioners seeks permission to withdraw this application with respect to petitioner no. 1, namely, Mahendra Mahto.

3. Permission is accorded.

4. Accordingly, this application stands dismissed as withdrawn with respect to petitioner no. 1.

6. The petitioners are apprehending their arrest in connection with Bibhutipur P.S. Case No. 275 of 2014, F.I.R.



dated 19.10.2014 for the offences punishable under Sections 341, 323, 308, 379, 504/34 of the Indian Penal Code.

7. According to prosecution case, these petitioners along with co-accused persons have assaulted the informant due to some petty dispute. It is further alleged that the co-accused, Mahendra Mahto has assaulted the informant by means on lathi on his head.

8. Learned counsel for the petitioners (except petitioner no. 1) submits that petitioners are innocent and they have falsely been implicated in the present case. He further submits that from perusal of the F.I.R it appears that there is direct and specific allegation against the co-accused, namely, Mahendra Mahto who gave lathi blow upon the head of the informant. He further submits that there is no allegation of any assault or overt act against these petitioners rather there is general and omnibus allegation against all the accused persons including these petitioners. He further submits that the petitioners have been given benefits of Section 41 (i) of Cr.P.C. by the police on 30.10.2014 but vide order dated 24.01.2023 the learned SDJM, Rosera took cognizance against these petitioners under Sections 341, 323, 308, 379, 504/34 of the Indian Penal Code.



9. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners on the ground that the petitioners carries one criminal antecedent other than the present one.

10. Considering the aforesaid facts and circumstances that there is no allegation of any assault or overt act against these petitioners, let the petitioners (except petitioner no. 1), above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail 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 Sub Divisional Judicial Magistrate, Rosera, District- Samastipur in connection with Bibhutipur P.S. Case No. 275 of 2014, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. If the petitioners tampers with the evidence or the



witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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