

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13040 of 2024

Arising Out of PS. Case No.-533 Year-2022 Thana- BAHERA District- Darbhanga

1. Md. Altaph S/O Md. Ale @ Ale Hussain @ Alwa
2. Suhagin Praveen @ Suhagin Parween @ Suhagin Khatoon W/O Md. Dilawar @ Musna
3. Md. Dilawar @ Musna S/O Md. Khurshid
4. Md. Atikullah @ Atikullah @ Md. Atiullah
5. Md. Safiullah @ Md. Samiullah
6. Ale Hussain @ Alwa @ Md. Ale
Sl.Nos.4 to 6 Are S/O Late Md. Rashid @ Abdul Rashid
7. Mostari Khatoon W/O Late Md. Yunus
All Are R/O Village- Badarbanna, PS- Bahera, District- Darbhanga

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Jha, Advocate
For the Opposite Party/s	:	Mr.Anil Prasad Singh, APP
For the informant	:	Mr. Madhusudan Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 14-03-2024 1. Heard learned counsel for the petitioners, learned APP for the State along with learned counsel for the informant.
2. The petitioners seek bail in anticipation of his arrest in a case registered for the offences punishable under Sections 147, 341, 323, 307, 379 and 504 of the IPC.
3. The learned counsel for the petitioners submit that petitioners have been falsely implicated in the instant case by the informant.
4. It is next submitted that from perusal of the allegation as alleged in the FIR, it would manifest that with



respect to petitioner no.5, Md. Safiullah @ Md. Samiullah, it is alleged that he assaulted the informant with sword causing injury on head and petitioner no.2 and 7 are alleged to have snatched Rs.5000/- and mobile of the informant and rest of the petitioners are alleged with general and omnibus allegation i.e. there is no specific allegation is alleged against them. It is further submitted that though against petitioner no.5, it is alleged that he assaulted by sword causing injury on head, but then from the injury report of the injured it would manifest that the injury has been caused by hard and blunt substance as would manifest from Annexure-3.

5. It is next submitted that mother of the petitioner no.2 had instituted Bahera P.S. Case No.494 of 2022 dated 18.11.2022 (Annexure-2). In the said FIR, it has been alleged that informant while driving his motorcycle hit the son of petitioner no.2 causing serious injury. It is further submitted that the son of the petitioner no.2 on account of the accident was admitted in DMCH, Darbhanga where he was under treatment and as such there was some delay in instituting Bahera P.S. Case No.494 of 2022. The learned counsel next submit that a representation was also submitted to the Senior Superintendent of Police, Darbhanga for holding a fair investigation in the



instant case based on which the Senior Superintendent of Police, Darbhanga directed the Dy.S.P., (Traffic), Darbhanga to hold an enquiry in pursuance whereof an inquiry was made and in the inquiry it transpired that the allegation as alleged in the instant FIR had never taken place and the accused persons including the petitioners were falsely implicated. It also transpired during the course of inquiry that the eyewitnesses of the present occurrence were not even present at the place of occurrence as one was in Delhi and the other eyewitness did not support the case of the prosecution but supported the fact that an accident had taken place in which son of the petitioner no.2 was injured.

6. The learned counsel thus submits that when the accident took place the informant also received severe injuries on his body including the head as he also fell from the motorcycle after losing balance. It is thus submitted at the cost of repetition that even presuming what has been alleged is true without admitting then the only allegation against the petitioner no.5 is of assaulting the informant by sword, but then the injury is found to be by hard and blunt substance and as far as other petitioners are concerned the allegation against them is ornamental in nature. It is also submitted that petitioner no.2 and



7 are women.

7. The learned APP along with learned counsel appearing on behalf of the informant opposes the anticipatory bail application, but are not in a position to rebut the submission of the learned counsel for the petitioners that the allegation of assault against petitioner no.5 is of assaulting by sword, but then the injury report does not corroborate the same and the allegation against rest of the accused persons is general and omnibus in nature and allegation of snatching mobile and Rs.5000/- by women are ornamental.

8. At this stage, the learned counsel for the informant submits that even process under Section 82 of the Cr.P.C. has also been issued and the same dis-entitles the petitioners from being considered for anticipatory bail. The said submission of the learned counsel appearing on behalf of the informant is vehemently rebutted by the learned counsel appearing on behalf of the petitioners and submit that such submissions are made only when no other submissions are there to counter the submissions of the accused persons on merit. It is further submitted that no doubt process under Section 82 Cr.P.C. has been issued but then the said process had been issued after the petitioners had approached the learned trial court for seeking



anticipatory bail. It is thus submitted that when the accused is not absconding rather is seeking his remedies available in law, in that event the Court should refrain from issuing any process under Sections 82 or 83 Cr.P.C. The law is well settled in that regard, but then the court and the police are acting mechanically. This submission of the learned counsel for the petitioner could not be countered by the learned counsel appearing on behalf of the informant.

9. Considering the submissions made by the learned counsel for the petitioners, the petitioner above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M., Benipur, Darbhanga in connection with Bahera P.S. Case no.533 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

10. The application stands allowed.

(Satyavrat Verma, J)

Prakash Narayan

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