

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23597 of 2024

Arising Out of PS. Case No.-272 Year-2023 Thana- HUSSAINGANJ District- Siwan

1. Motiya Devi @ Moti Devi @ Matiya Devi, W/O Brahma Mallah,
2. Jagdish Mallah, S/o Late Bahadur Mallah,
Both are residents of village- Faridpur Mathia, P.S. - Hussainganj, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bijay Prakash Singh, Advocate
For the State	:	Mr.Harendra Prasad, APP
For the Informant	:	Mr. Yogesh Kumar, Advocate
		Mr. Ashutosh Kumar Upadhyaya, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 01-05-2024 Heard learned counsel for the petitioners, learned
APP for the State and learned counsel for the informant.

2. In the present case, the petitioners are apprehending their arrest in connection with Hussainganj P.S. Case No. 272 of 2023, registered for the alleged offences under Sections 341, 323, 307, 447, 504/34 of the Indian Penal Code.

3. As per prosecution case, the petitioners and other co-accused persons started breaking the boundary wall of the informant and they were trying to take their tractor and JCB through the land of the informant. The informant forbade them for doing so and due to anger over the act of the informant, the petitioner and other co-accused persons with iron rod assaulted



the informant and his family members causing serious injuries to them. The allegation against the petitioner no.2 is that he struck the informant on his head with *lathi*.

4. The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. From the FIR, it is apparent that the informant and the petitioners are co-villagers and there is land dispute between the parties. Specific allegation of assault is against co-accused Brahma Mallah and Lallan Mallah and there is no allegation of assault to Ankit Kumar Singh against the petitioners whose injury was found to be grievous. The allegation against the petitioner no. 2 is that he assaulted the informant and injury of the informant was found to be simple in nature caused by hard and blunt substance. However, the allegations are mostly general and omnibus. There is counter version lodged by the petitioner no.1 vide Hussainganj P.S. Case No. 273 of 2023 against the informant and others for the same occurrence. From the facts of the case, no offence under Section 307 IPC is made out and other offences are bailable in nature. The learned counsel further submits that it appears to be free fight in which both the sides received injuries. The petitioners are having clean antecedent.



5. Learned APP as well as learned counsel appearing on behalf of the informant vehemently oppose the submissions made on behalf of the petitioners. The learned counsel for the informant submits that the petitioners assaulted and caused the injuries to the informant and one Ankit Kumar Singh and the injury of Ankit Kumar Singh is stated to be quite serious.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the general nature of allegation against the petitioners and simple nature of injuries attributable to the petitioner no.2 without any specific allegation against the petitioner no.1 and further considering the counter version, 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 bond of Rs. 10,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IX, Siwan, in connection with Hussainganj P.S. Case No. 272 of 2023, subject to the conditions mentioned in Section 438(2) of the Cr.P.C. and the 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 court below, if so required by the learned trial court.

V.K.Pandey/-

(Arun Kumar Jha, J)

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