

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38281 of 2024

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

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1. Dewanti Kumari D/O Bramha Mallah @ Bramha Sahani R/O Village-Faridpur Mathiya, P.S.- Hussainganj, Dist-Siwan
 2. Barmha Mallah @ Bramha Sahani @ Bramha Malah S/O Late Haricharan Mallah @ Haricharan Sahani R/O Village- Faridpur Mathiya, P.S.- Hussainganj, Dist- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Kumari Anupam, Adv.

For the Opposite Party/s : Mr. Choubey Jawahar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

2 12-07-2024 Learned counsel for the petitioners seeks permission to correct the cause title as the relationship of the petitioner no. 1 with Brahma Mallah has not been mentioned in the cause title.

02. She is permitted to correct the cause title in course of the day.

03. Heard learned counsel for the petitioners and learned APP for the State.

04. 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.

05. 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

petitioners and other co-accused persons assaulted the informant and his family members by means of bamboo and iron rod.

06. 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 against one Ankit Singh is against petitioner no. 2 Brahma Mallah and co-accused Lallan Mallah with piece of bamboo and iron rod, respectively and one of the injuries were found to be grievous. There is general and omnibus allegation against the petitioner no. 1 and other injuries of the informant and others were found to be simple in nature caused by hard and blunt substance. There is counter version lodged by co-accused Motiya Devi 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.

07. Learned APP opposes the submissions made on behalf of the petitioners.

08. Having regard to the facts and circumstances and

submissions made on behalf of the parties and considering the fact that there is no specific allegation against petitioner no. 1 for causing any injuries and injuries attributed to the petitioner no. 2 is of small dimension and does not appear to be life threatening and further considering the case and counter case between the parties, 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/- (ten 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.

(Arun Kumar Jha, J)

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