

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40772 of 2024

Arising Out of PS. Case No.-298 Year-2023 Thana- BIBHUTIPUR District- Samastipur

1. Kamlesh @ Kamlesh Kumar @ Kamlesh Kumar Mahto, Son Of Late Sonelal Mahto, Resident Of Village- Mustafapur, P.S.- Bibhutipur , Dist- Samastipur, Bihar
2. Shambhu Narayan Mahto @ Shambhu Sharan @ Shambhu Mahto, Son Of Dip Narayan Mahto @ Deep Narayan Mahto Resident Of Village- Mustafapur, P.S.- Bibhutipur , Dist- Samastipur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinay Kumar Mishra, Advocate
For the Opposite Party/s : Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 03-07-2024 Heard learned counsel for the petitioners and learned APP for the State.

2. In the present case, the petitioners are apprehending their arrest in connection with Bibhutipur P.S. Case No. 298 of 2023, registered for the alleged offences under Sections 147, 148, 149, 341, 323, 325, 307, 354(A), 379, 427, 504 and 506 of the Indian Penal Code.

3. As per prosecution case, petitioners and other co-accused persons, who were variously armed, tried to forcibly cultivate the land of the informant. When the informant intervened, she was abused and assaulted by petitioner no.2 and the co-accused. Petitioners further assaulted the husband of the informant on his head with iron rod making him unconscious.



Other persons of the informant side were also assaulted and received injuries and altogether six persons were referred to Sadar Hospital.

4. The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. Earlier the co-accused Ashok Kumar Mahto has lodged Bibhutipur P.S. Case No. 281 of 2023 against the informant side. The wife of petitioner no.2 has given an application to the Superintendent of Police, Samastipur bringing to his notice the fact that informant side tried to forcibly capture the land in which a number of persons received injuries and petitioner no.2 being a village doctor treated the injured and sent them to P.H.C, Bibhutipur and for this reason he has been made accused in this case. For an occurrence of 23.07.2023, FIR has been lodged on 08.08.2023 without any satisfactory explanation. Though there is allegation of causing injuries to a number of persons but no injury report has been brought on record and this fact is apparent even from the rejection order of learned Additional District and Sessions Judge-IX, Samastipur. Petitioner no.1 is having criminal antecedent of one case under Excise Act whereas petitioner no.2 is having clean antecedent.

5. Learned APP vehemently opposes the submissions made on behalf of the petitioners.



6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the earlier lodged case of the informant side and further considering the land dispute between the parties coupled with strong possibility of false accusation, 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 Sub Divisional Judicial Magistrate, Rosera, Samastipur/ court concerned in connection with Bibhutipur P.S. Case No. 298 of 2024, 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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