

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40857 of 2024

Arising Out of PS. Case No.-366 Year-2023 Thana- BUXAR MUFFSIL District- Buxar

1. Rama Mushar @ Hareram Mushar S/O Muneshwar Mushar, R/O Village- Khilafatpur, P.S- Buxar (Muffasil), Dist.- Buxar.
2. Sitaram Mushar S/O Muneshwar Mushar, R/O Village- Khilafatpur, P.S- Buxar (Muffasil), Dist.- Buxar.
3. Ravi Mushar S/O Garad Mushar, R/O Village- Khilafatpur, P.S- Buxar (Muffasil), Dist.- Buxar.
4. Gorakh Mushar S/O Garad Mushar, R/O Village- Khilafatpur, P.S- Buxar (Muffasil), Dist.- Buxar.
5. Ajay Mushar S/O Panchu Mushar, R/O Village- Khilafatpur, P.S- Buxar (Muffasil), Dist.- Buxar.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Arun Kumar Gupta, Advocate
For the Opposite Party : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-07-2024 Heard Mr. Arun Kumar Gupta, the learned counsel

for the petitioners and Mr. Shantanu Kumar, the learned

Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in

connection with Buxar (Muffasil) PS Case No. 366 of 2023, FIR

dated 12.08.2023, registered for the offences punishable under

Sections 341, 323, 324, 379, 504, 506, 147 and 149 of the

Indian Penal Code.

3. According to prosecution case, all the accused



persons, in drunken condition, were hurling abuses at the door of the informant, and upon his objection, accused Ravi Mushar assaulted with *tangi* on informant's head. It is further alleged that the accused persons also assaulted informant's son and informant's brother-in-law's son and stole Rs. 5,000/- (Rupees five thousand) from the pocket of Upendra Mushar.

4. Learned counsel for the petitioners submits that petitioners have falsely been implicated in the present case. He further submits that upon perusal of the FIR, it appears that there is specific allegation against co-accused person namely, Ravi Mushar, that he has assaulted the informant with *tangi* and the informant has received injury, apart from that, petitioner no. 4 has also assaulted to the son of the informant. He further submits that although the informant and his son have received injuries, but the injury report suggests that injury of informant and his son is simple in nature. He lastly submits that there is case and counter case between the parties and FIR has been instituted after a delay of five days without giving any explanation for the delay.

5. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioners and submits that all the petitioners have



clean antecedent except petitioner no. 2, who has one criminal antecedent other than the present one, however, he fairly admits that petitioner no. 2 is on bail in the pending matter.

6. Considering the aforesaid facts and circumstances and mainly the fact that there is case and counter case between the parties, the injury inflicted upon the informant and his son is suggested to be simple in nature by the injury report and there is a delay of five days in the institution of FIR without giving any explanation, let the petitioners, above-named, in the event of their arrest or surrender before the learned trial Court, within a period of four weeks from the date of receipt of the order, be released on anticipatory 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 Chief Judicial Magistrate, Buxar, where the case is pending in connection with **Buxar (Muffasil) PS Case No. 366 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

(i). Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on their absence on two



consecutive dates without sufficient reason, their bail bond shall be cancelled by the learned trial Court.

(ii). If the petitioners tamper 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 learned trial Court 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 learned trial Court 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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