

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53347 of 2024

Arising Out of PS. Case No.-341 Year-2024 Thana- DANAPUR District- Patna

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1. Veena Devi, wife of Shiv Prasad Rai @ Shiv Prasad, R/o- Gosai Tola, Gola Road, P.S- Danapur Dist- Patna.
 2. Birju Rai, Son of Vishwanath Rai, R/o- Gosai Tola, Gola Road P.S.- Danapur Dist- Patna.
 3. Shiv Prasad @ Shiv Prasad Rai, Son of Vishwanath Rai, R/o- Gosai Tola, Gola Road, P.S.- Danapur Dist- Patna.
 4. Jitendra Kumar, Son of Birju Rai, R/o- Gosai Tola, Gola Road P.S.- Danapur Dist- Patna.
 5. Prince Raj @ Prince Kumar, Son of Shiv Prasad Rai @ Shiv Prasad, R/o- Gosai Tola, Gola Road P.S.- Danapur Dist- Patna.
 6. Ankit Kumar @ Ankit Raj, Son of Shiv Prasad Rai @ Shiv Prasad, R/o- Gosai Tola, Gola Road P.S.- Danapur Dist- Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ghanshyam Tiwary, Advocate
For the Opposite Party/s	:	Mr.Prem Kumar Jha, APP
For the Informant	:	Mr. Rikesh Sinha, Advocate
		Mr. Rakesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 28-08-2024

1. Heard learned counsel appearing on behalf of the petitioners, learned Additional Public Prosecutor appearing on behalf of the State and learned counsel appearing on behalf of the informant.

2. The accused/petitioners are named in F.I.R. and apprehending their arrest in connection with ABP



No. 823/2024 arising out of Danapur P.S. Case No. 341 of 2024, registered for the offences punishable under Sections 147, 149, 341, 342, 323, 307, 504, 506 of the Indian Penal Code.

3. The allegation against above named petitioners is to assault informant and others alongwith co-accused persons, causing head and bodily injuries, which may likely to cause their death, where occurrence is alleged to be arising out of land disputes.

4. Learned counsel appearing on behalf of the petitioners submitted that the allegation of assault is not available against this petitioner. It is submitted that a counter case for same set of occurrence was lodged by petitioner's side, which has been registered as Danapur P.S. Case No. 342/2024, suggesting the occurrence is free fight, negating intention to cause death, which is a prime consideration to make out a case for the offence under Section 307 of the Indian Penal Code. It is further submitted that injury as alleged to be received during



the course of occurrence is simple in nature. It is also pointed out that petitioner nos. 1, 2, 3 and 5 found involved in one or two criminal cases, where they are on bail, whereas petitioner nos. 4 and 6 are of clean antecedents.

5. Learned APP, duly assisted by learned counsel Mr. Rikesh Sinha, appearing on behalf of the informant, while opposing the prayer of bail submitted that the injury is not a consideration, to make out a *prima facie* case for offence under Section 307 of the IPC, rather it was the "intention to cause death" is the important consideration, which may gathered safely in present case as, injuries were caused on vital parts of the body.

6. Considering the aforesaid facts and circumstances and by taking note of fact as occurrence appears *prima facie* free fight in nature, negating "intention to cause death", where injury as received by injured during the course of occurrence, also found



simple in nature, accordingly, all above named petitioners, in the event of their arrest or surrender before the learned trial Court, within a period of four weeks of the order, are directed to be released on bail furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-1st, Danapur (Patna)/concerned Court, where the case is pending in connection with ABP No. 823/2024 arising out of Danapur P.S. Case No. 341 of 2024, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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