

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58043 of 2024

Arising Out of PS. Case No.-165 Year-2024 Thana- BAJPATTI District- Sitamarhi

1.

Kishori Sah S/o Late Laxmi Sah Resident of village- Mathurapur, Ward no-12, PS- Bajpatti, District- Sitamarahi
2.

Baidyanath Sah S/o Late Laxmi Sah Resident of village- Mathurapur, Ward no- 12, PS- Bajpatti, District- Sitamarahi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ayush Kumar, Advocate
For the State	:	Ms. Meena Singh, APP
For the Informant	:	Mr. Ashok Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

305-10-2024

Heard Mr. Ayush Kumar, learned Advocate for the petitioners and learned Additional Public Prosecutor for the State. The informant is represented through Mr. Ashok Kumar Sinha, learned Advocate.

2. The petitioners apprehend their arrest in connection with Bajpatti P.S. Case No. 165 of 2024, registered for the offences punishable under Sections 341/ 323/ 324/ 307/ 379/ 385/ 504/ 506/ 34 of the Indian Penal Code.

3. While the informant was at his house, in the meantime, all the FIR named accused persons variously armed came and started abusing the informant. On protest being made, co-accused Ramnath Sah inflicted *dabia* blow to the son



of the informant on his head. It is further alleged that when Jawahar Sah came to rescue the informant and others, in the meantime, the petitioner no. 2 inflicted the iron rod blow to him causing fracture injury in his hand. The petitioner no. 1 also attacked the informant and others by means of iron rod and stones causing injury to many persons. There is also allegation of demand of extortion and snatching of valuables.

4. Learned Advocate for the petitioners contended that the aforesaid occurrence narrated in the FIR is a result of free fight between the persons of both the sides on account of a serious long standing dispute. There is counter version of the present case being Bajpatti P.S. Case No. 171 of 2024 which was lodged by the wife of co-accused Ramnath Sah against the informant and other family members. Drawing the attention of the averments made in the application, it is next contended that there is a partition suit bearing Partition Suit No. 32 of 2017 pending before the learned Munsif, Pupri between both the parties and just before the occurrence, an order with regard to the mutation has been passed in favour of the petitioners' side which gave a fresh cause of action to the informant's side to enter into a fight. Learned Advocate has further drawn the attention of this Court to the injury report and submitted that so



far as the injury sustained to Jawahar Sah is concerned, *prima facie*, it appears that there is contusion and swelling on the left hand only. Later on, the X-ray report suggest fracture of proximal of middle phalanx and said to be grievous in nature; but it is on non-vital part and there was no intention to cause any grievous injury is the contention of learned Advocate. It is lastly contended that be that as it may, the petitioners undertake that they will fully cooperate in the proceeding of the court and will not indulge in such kind of activity in future.

5. On the other hand, learned Advocate for the State as well as the informant oppose the bail application and submit that the petitioners have actively participated in the crime and assaulted the informant and other family members due to which one of the person has sustained grievous injury. They have also drawn the attention of this Court that the petitioners bear one criminal antecedent.

6. Regard being had to the submissions made on behalf of the parties and considering the factum of case and counter case, on the premise of admitted land dispute, resulting into injuries to the persons of both the sides, let the petitioners abovenamed be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks



from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st (P), Sitamarhi in connection with Bajpatti P.S. Case No. 165 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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