

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79814 of 2023

Arising Out of PS. Case No.-65 Year-2022 Thana- MATIYARIA District- West Champaran

1. Mithilesh Kumar, Son of Sri Jain Mahto
2. Sumit Kumar Son of Sri Manbodh Mahto @ Manabodh Mahato
3. Tribhuwan Kumar @ Tribhawan Kumar , Son of Sri Balkaran Nath
4. Jayan Mahto @ Jainaraiyan Mahto @ Jain Mahto, Son of Sri Bhutai Mahto
All are resident of Village - Mahui, P.S. - Matiyaria, District - West Champaran

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mrs. Rashmi Jha, Advocate

Mr. Sagar Kumar, Advocate

For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 07-03-2024 Heard learned counsel for the petitioners and

learned Additional Public Prosecutor for the State.

2. The accused/petitioners are named in the

FIR and apprehending their arrest in connection with

Matiyaria P.S. Case No.65 of 2022 registered under

Sections 341, 323, 324, 325, 307, 354, 379, 504 and

506 read with 34 of the Indian Penal Code.

3. Allegation against the petitioners is to

assault the informant and others causing head and

bodily injuries, having intention to cause their death,



where occurrence alleged to arises out of land dispute.

4. It is submitted by learned counsel for the petitioners that petitioners have been falsely implicated with present case out of land dispute. It is also pointed out that the occurrence is of free fight in nature, where both parties received simple to grievous injuries and for the same set of occurrence, a case was lodged by petitioners' side, which has been registered as Matiyaria P.S. Case No.64 of 2022 dated 05.08.2022, where statement of petitioner no.1, who was the informant of said case made in surgical ward of Government hospital, itself. It is submitted that the case of petitioner no.1 *qua* occurrence was lodged prior to this case and to counter the said case, the present case was lodged by the informant after lapse of about one month of the occurrence i.e. on 05.08.2022, where occurrence is alleged to be taken place on 09.07.2022, itself. It is submitted that the occurrence is apparently free fight in nature, therefore, intention to cause death cannot be



gathered, which is a prime consideration to attract a *prima facie* case for the offence under Section 307 of the Indian Penal Code. It is also argued that injury of petitioner no.1 not appears explained by informant. It is further submitted that informant received grievous injury during the occurrence alleged to be caused by petitioner no.1 but, only on this score, intention to cause death cannot be gathered and in support of submission, learned counsel relied upon legal report of Hon'ble Supreme Court in the case of **Jage Ram vs. State of Haryana [(2015) 11 SCC 366]**.

5. Learned APP opposes the prayer of bail.

6. In view of aforesaid factual submissions, as FIR in issue was lodged after delay of about one month, where occurrence is appearing *prima facie* free fight in nature, negating intention to cause death on its face, accordingly, all above-named petitioners, in the event of their arrest or surrender in the court below within a period of four weeks, are directed to be released



on bail on 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 Additional Chief Judicial Magistrate-IV, Bettiah, West Champaran in connection with Matiyaria P.S. Case No.65 of 2022, subject to the conditions as laid down under Section 438(2) of the CrPC.

(Chandra Shekhar Jha, J.)

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