

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83605 of 2023

Arising Out of PS. Case No.-411 Year-2021 Thana- SUPAUL District- Supaul

1. Ramswaroop Yadav S/o Late Mahabir Yadav R/o Village- Sisauni, P.S- Kishanpur, Distt.- Supaul.
2. Satyendra Yadav S/o Ramswaroop Yadav R/o Village- Sisauni, P.S- Kishanpur, Distt.- Supaul.
3. Sachindra Yadav @ Sachindra Kumar Yadav S/o Ramswaroop Yadav R/o Village- Sisauni, P.S- Kishanpur, Distt.- Supaul.
4. Vipin Yadav @ Vipin Kumar S/o Ramswaroop Yadav R/o Village- Sisauni, P.S- Kishanpur, Distt.- Supaul.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Ashwani Kumar Tiwary, Advocate
For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 12-07-2024 Heard learned counsel for the petitioners, learned counsel for the informant and learned APP for the State.

2. The four petitioners in the this case are seeking pre-arrest bail in connection with Supaul P.S. Case No. 411 of 2021 registered for the offences punishable under Sections 147, 149, 341, 342, 323, 504, 506, 307 and 379 of the Indian Penal Code.

3. Earlier, a petition being Cr. Misc. No. 63494 of 2023 was preferred by the petitioners but the same was not entertained after finding that they had not provided complete criminal antecedents. The petitioners were granted liberty to file fresh application, if so advised.

4. From the statements made in paragraph '3', it appears that the petitioner no. 1 has got six cases on his head, out of which in four cases he has already been acquitted, in rest of the two cases, he is on bail. Petitioner no. 2 was accused in three cases, out of which in one case he has been acquitted and in the other two cases he is on bail. Petitioner no. 3 is accused in four cases, out of which in one case he has been exonerated by the Juvenile Justice Board and in the other three cases he is on bail. Petitioner no. 4 was made accused in two cases but in both the cases, he has been exonerated during investigation.

5. As per prosecution story, on 09.06.2021 at about 5:00 PM, the petitioners along with other co-accused variously armed started encroaching common way and when the informant and other villagers objected, it is alleged that petitioner no.1 assaulted the informant on head by a *farsa* due to which he sustained injury on his head and blood started oozing out. Petitioner no.2 is alleged to have stabbed the informant in stomach, petitioner no.3 assaulted on the head of one Manohar Yadav by a *lathi* and petitioner no.4 assaulted on the back of Umesh Yadav by means of rod.

6. Learned counsel for the petitioners would submit that the present case is a counterblast of Supaul P.S. Case No.

410 of 2021, which was registered from the petitioners' side with regard to the occurrence in which petitioner no. 1 was assaulted. The dispute arose on the allegation of an encroachment of common way. It is submitted that the allegation that petitioner no. 1 had assaulted the informant on his head by *farsa* is not corroborated from the injury report. According to the injury report, the informant had suffered one simple injury on his head caused by a hard and blunt object.

7. It is further submitted that the another injured Manohar has also suffered one simple injury on his head. After investigation, Police had submitted final form but differing with the police report, the learned Magistrate has taken cognizance and summoned the petitioners, against which they have referred a criminal revision application before the learned Sessions Judge, Supaul.

8. Learned counsel for the informant has opposed the prayer for pre-arrest bail of the petitioners. It is submitted that the petitioners were the aggressor on the land in question. It is further submitted that the petitioners had assaulted the prosecution party, they have got criminal antecedents, hence they do not deserve privilege of pre-arrest bail.

9. Having regard to the submissions noted

hereinabove, this Court finds that in this case there is a case and counter case between the parties suggesting that both the parties had indulged in a free fight. Police had investigated the case and according to the petitioners, it was not found true against them whereafter a final form was submitted but later on the learned Magistrate differed with the police report and took cognizance. In the criminal cases which are said to have been there against the petitioners, they have either been acquitted, exonerated or are on bail and at this stage, finding the nature of the offence alleged against the petitioners and finding that it is a case where both the parties have indulged in free fight and the injury caused to the informant and Manohar both are said to be simple in nature, this Court directs that in case of their arrest or surrender within a period of four weeks from today, the petitioners above named be released on bail in connection with Supaul P.S. Case No. 411 of 2021 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Supaul subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

10. And further condition that the court below 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 court below 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.

- 11. Let the trial be expedited.
- 12. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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