

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1380 of 2024

Arising Out of PS. Case No.-118 Year-2023 Thana- JURAWANPUR District- Vaishali

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1. Pankaj Kumar S/o Modi Rai R/o village Raghapur PS Jurawanpur District Vaishali
 2. Modi Rai S/o Lal Babu Rai R/o village Raghapur PS Jurawanpur District Vaishali

... .. petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the petitioners/s : Ms. Bela Singh, Advocate

For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 31-01-2024 Heard Ms. Bela Singh, learned counsel appearing on behalf of the petitioners and Mr. Md. Mushtaque Alam, learned APP appearing on behalf of the State.

2. The petitioners apprehend their arrest in connection with Jurawanpur P.S. Case No.118 of 2023 registered under Section 341, 323, 324, 325, 504, 506, 307 and 34 of the Indian Penal Code.

3. As per the allegation made in the FIR, the accused persons named therein assaulted the informant with *Lathi* and *Kudal* with an intention to kill the informant.

4. Learned counsel appearing on behalf of the petitioners submits that petitioner no.2 is the full brother of the

informant and the petitioner no.1 is the son of the petitioner no.2. There is a family dispute between the parties and case and counter-case have been filed by them due to pruning of branch of a tree, which was objected by the petitioners. Learned counsel further submits that a fierce fight took place between the parties and in their self-defence petitioners may have caused some injuries on the vital part on the body of the informant.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail to the petitioners. He submits that allegation in the FIR is that the injury is on the head of the informant, which is a vital part of the body, therefore, the petitioners do not deserve to be released on pre-arrest bail.

6. Considering the rival submission made on behalf of the parties, as well as, the fact that the petitioners and the informant are full brothers, there is case and counter-case filed by both the parties, which took place allegedly due to pruning of branch of a tree, which had protruded in the petitioners' side. A fierce fight took place between the parties and in the said course of incidence both the sides sustained injuries. I am of the opinion that petitioners have, prima facie, made out a case to be released on pre-arrest bail. Court below is directed to release the petitioners on anticipatory bail, subject to the condition that the

District Court shall call the final injury report and if it finds that injury is grievous in nature and fatal to the life, the petitioners in that case may file their application for regular bail. In case, it is found that no overt act has been made by the petitioners, in that case even without there being final medical report related to the injury, the petitioners are directed to be released on pre-arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each, to the satisfaction of learned Additional Chief Judicial Magistrate -III, Vaishali at Hajipur, in connection with Jurawanpur P.S. Case No.118 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J.)

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