

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2163 of 2024

Arising Out of PS. Case No.-95 Year-2023 Thana- KOTWA District- East Champaran

1. Munna Mahto @ Munna Kumar Son of Shiv Shankar Mahto Resident of Village- Konhwa, Police Station- Kotwa in the district of East Chmaparan
2. Pannalal Mahto @ Panna Lal Mahto Son of Shiv Shankar Mahto Resident of Village- Konhwa, Police Station- Kotwa in the district of East Chmaparan

... .. Petitioners

Versus

The State of Bihar Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Advocate

For the Opposite Party/s : Mr.Khurshid Anwar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 19-03-2024 Heard learned counsel for the petitioners and learned
APP for the State.

2. The accused-petitioners, named in the F.I.R., are apprehending their arrest in connection with Kotwa P.S. Case No. 95 of 2023 registered for the offences punishable under Sections 341, 323, 324, 307, 379, 504, 506, 34 of the Indian Penal Code. They have no criminal antecedent as stated in paragraph '3' of the application.

3. Allegation against the petitioners is to assault the informant and others alongwith other co-accused persons by means of *Lathi*, iron rod, knife etc. causing head and bodily injury, having intention to cause their death, where



occurrence is arises out of neighbourhood dispute and differences.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners have been falsely implicated in the present case due to neighbourhood dispute and differences. It is submitted that there is specific allegation as to cause specific injury, *qua* co-accused persons/petitioners during the course of occurrence, where it is alleged through narration of F.I.R. that petitioner no. 1 assaulted Hiralal Mahto by knife whereas petitioner no. 2 assaulted one Nitu Devi by knife causing head and other bodily injury. It is submitted that if it is so, then, certainly some sharp cut injuries to be noticed upon their medical examination, which is absent in their injury report, rather the injuries which were found upon their medical examination found to be caused by hard and blunt substance for which co-accused Mahavir Mahto and Hira Mahto were alleged specifically. It is submitted that occurrence is of free-fight in nature where both parties have received injuries and, for same set of occurrence, a counter case was also lodged by



petitioner's side which has been registered as Kotwa P.S. Case No. 93 of 2023. Both petitioners are men of clean antecedent.

5. Learned A.P.P. for the State duly assisted by learned counsel for the informant while opposing the prayer for anticipatory bail of the petitioners, submitted that petitioners have actively participated in the occurrence and there is specific allegation against the petitioners to cause head and other bodily injury to informant and others.

6. In view of the aforesaid factual submissions and by taking note of the fact as occurrence is free-fight where both parties received injury, negating *prima-facie* intention to cause death and furthermore, assault as alleged to be caused by petitioners not appearing *prima-facie* corroborating with injury *qua* alleged used weapons, accordingly, both above-named petitioners, in the event of their arrest/surrender within a period of four weeks from today, are directed to be enlarged on bail on furnishing of bail bond of Rs.10,000/- (ten thousand only) each with two sureties of the like amount each to the satisfaction of



learned Chief Judicial Magistrate, East Champaran, Motihari
in connection with Kotwa P.S. Case No. 95 of 2023, subject
to the conditions as laid down under Section 438 (2) of the
Cr.P.C.

(Chandra Shekhar Jha, J.)

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