

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87578 of 2024

Arising Out of PS. Case No.-397 Year-2024 Thana- MAKHDUMPUR District- Jehanabad

1. Ram Lakhan Yadav @ Ramlakhan Prasad Yadav Son of Rambarat Yadav Resident of Village- Hirda Bigha, P.S.- Tehta, Distt.- Jehanabad.
2. Mantoo Yadav @ Ashok Kumar Son of Ramlakhan Yadav Resident of Village- Hirda Bigha, P.S.- Tehta, Distt.- Jehanabad.
3. Trivendar Yadav @ Trivendar Kumar @ Trivendra Yadav Son of Ramlakhan Yadav Resident of Village- Hirda Bigha, P.S.- Tehta, Distt.- Jehanabad.
4. Ramanuj Kumar @ Chintu Yadav Son of Ramlakhan Yadav Resident of Village- Hirda Bigha, P.S.- Tehta, Distt.- Jehanabad.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 19-04-2025

Heard learned counsel appearing on behalf of the

petitioners, learned Additional Public Prosecutor appearing on behalf of the State and learned counsel appearing on behalf of the informant.

2. The accused/petitioners are named in F.I.R. and apprehending their arrest in connection with Makhdumpur (Tehta) P.S. Case No. 397 of 2024, registered for the offences punishable under Sections 329(3), 352, 351(2), 126(2), 115(2), 109, 3(5) of the B.N.S.S. and Sections 25(1-b)a/26/27/35 of Arms Act.

3. The allegation against above named petitioners is to open fire upon the informant and his family members alongwith co-accused persons from country made rifle and pistol, which appears admittedly not hit anyone. It is alleged further that after



coming close, the accused/petitioners assaulted on leg of the informant by using the butt of the rifle, causing injury on leg. It is further alleged that during the course of occurrence, the golden chain of the wife of the informant was also snatched. Occurrence alleged to be arising out of land dispute.

4. Learned counsel appearing on behalf of the petitioners submitted that apparently the present occurrence took place in the background of land dispute. It is submitted that the case of prosecution *prima facie* suggest that the allegation regarding firing was made initially, but subsequently, it was alleged that the assault was made by the butt of the rifle and that too on the non vital part of the informant and his son i.e. leg, when petitioners came closely. In this context, it is pointed out that the allegation as raised through FIR no where suggest that any *prima facie* case for the offence punishable under Section 109 of the BNS appears to be made out against petitioners. Learned counsel appearing for petitioners relied upon the legal report of Hon'ble Supreme Court as available through ***Jage Ram & Others Vs. State of Haryana*** reported in ***(2015) 11 SCC 366***.

5. Learned APP, duly assisted by learned counsel Mr. Gautam, appearing on behalf of the informant, while opposing the prayer of bail submitted that petitioners opened fire upon the



informant and thus actively participated during the occurrence, however, he could not disputed the factual submission as advanced by learned counsel appearing for petitioners.

6. Considering the aforesaid facts and circumstances and by taking note of fact as despite of having all opportunities the alleged assault was caused by the butt of country made pistol and that too on the non vital part of the informant i.e. leg, negating *prima facie* intention to cause death to make out a case under Section 109 of the BNS, accordingly, all above named petitioners, in the event of their arrest or surrender before the learned trial Court, within a period of four weeks of the order, are directed to be released on bail 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 A.C.J.M.-I, Jehanabad/concerned Court, where the case is pending in connection with Makhdumpur (Tehta) P.S. Case No. 397 of 2024, subject to the conditions as laid down under Section 438(2) of the Cr.P.C./482(2) of the BNSS.

(Chandra Shekhar Jha, J)

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