

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 12105 of 2021

Arising Out of PS. Case No.-303 Year-2020 Thana- NAUBATPUR District- Patna

1. Rudal Paswan, aged about 43 years, Gender-Male.
2. Ramdeo Paswan, aged about 39 years, Gender-Male.
Both sons of Nanda Paswan. Both residents of Village - Jafra Bhagwanpur,
PS- Naubatpur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate
For the State : Mr. Binod Shankar Modi, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 19-07-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners on 14.07.2021, which was allowed.

3. Heard Mr. Bimal Kumar, learned counsel for the petitioners and Mr. Binod Shankar Modi, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioners apprehend arrest in connection with Naubatpur PS Case No. 303 of 2020 dated 11.06.2020, instituted under Sections 341, 323, 324, 325, 307, 354B/34 of the Indian Penal Code.

5. As per the allegation in the FIR, the petitioners are said to have come to the mango orchard of Chandrakant Sharma,



being armed with *garasa* and they had ordered to kill the informant asking her why she was working as a caretaker due to which their work had been taken as they would have got to take care of the said orchard. Further, it has been alleged that the other co-accused who were also armed with *garasa* had assaulted the informant's husband, her two sons and another co-villager resulting in injuries on them, had also thrown her on the ground and had tried to outrage her modesty and had taken her ornaments and also broken one tooth. It has also been stated that her husband had to be given 15 stitches on her head and was in a serious condition being admitted to PMCH, Emergency Ward.

6. Learned counsel for the petitioners submitted that the incident took place on 10.06.2020 at 4:00 PM but the FIR has been lodged on 11.06.2020 at 10:00 AM and, thus, there is quite a delay which has not been explained. Learned counsel submitted that the reason for false implication is that the mango orchard was initially taken care of by the petitioners' side and the informant had been lately inducted and to put pressure on the petitioners' side, they have been falsely implicated. It was submitted that due to caste rivalry also, such allegation has been made. Learned counsel submitted that though in the FIR, there is allegation of assault leading to the informant's husband getting 15 stitches on



his head, but in the order of the Court below it has been noted that from the case diary, it transpired that injury report had still not been prepared, which shows the falsity of the allegation. Learned counsel submitted that, at best, the allegation against the petitioners is only of giving order to kill without any overt act being attributed to them and that they have no other criminal antecedent.

7. Learned APP submitted that as per the allegation, the petitioners had instigated others to attack. However, it was not controverted that except for the allegation of them being order givers, no overt act has been attributed to them.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM III, Danapur, Patna in Naubatpur PS Case No. 303 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good



behaviour of the petitioners, and (iii) that the petitioners shall also give an undertaking to the Court that they shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

10. The petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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