

(2021) 04 PAT CK 0095

In the Patna High Court

Case No : Criminal Miscellaneous No. 34539 Of 2020

Anjani Kumar Jha @ Anjani Jha And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 13-04-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 147, 307, 323, 324, 341, 379, 504, 506
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2021) 04 PAT CK 0095

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Manoj Kumar Jha, Sanjay Kumar Sharma, Subhash Kumar Jha

Final Decision : Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. Heard Mr. Manoj Kumar Jha, learned counsel for the petitioners; Mr. Sanjay Kumar Sharma, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Subhash Kumar Jha, learned counsel for the informant.
3. Learned counsel for the petitioners submitted that due to inadvertence, name of the father of the petitioner no. 3 has been typed as 'Bibhuti Nath Jha', whereas, it should have been 'Baidya Nath Jha'. It was submitted that though supplementary affidavit has been prepared but as it is not supported by an affidavit, the same has not been filed. Thus, prayer was made that he may be permitted to correct the name of the father of the petitioner no. 3 from 'Bibhuti Nath Jha' to 'Baidya Nath Jha'.
4. Having considered the same, the prayer is allowed. Let the name of the father of the petitioner no. 3 be corrected as 'Baidya Nath Jha' instead of 'Bibhuti Nath Jha'.

5. The petitioners apprehend arrest in connection with Bhairab Asthan PS Case No. 32 of 2020 dated 15.03.2020, instituted under Sections 147, 341, 323, 324, 307, 379, 504, 506/34 of the Indian Penal Code.

6. The allegation against the petitioners is general and omnibus assault though, specifically against the petitioner no. 2 is of ordering her son, Vikram, to kill the informant's son upon which he had given Tangari blow on the informant leading to injury.

7. Learned counsel for the petitioners submitted that the genesis of the incident is a dispute relating to a cricket match between the son of the informant and the son of the petitioner no. 2. Learned counsel submitted that besides having no criminal antecedent even the allegation is general and omnibus though against petitioner no. 2 is that she had given order to kill the son of the informant, but the same is unbelievable, as she is a lady and it is a super addition. Moreover, it was submitted that with regard to her also, there is no allegation of any overt act.

8. Learned APP submitted that the allegation against the petitioners is of assault. However, it was not controverted that the same is general and omnibus except for petitioner no. 2, who is said to have ordered her other son to kill the son of the informant.

9. Learned counsel for the informant submitted that the informant has received grievous injury and that petitioner no. 2 was the person, who had instigated and ordered the other co-accused to kill the son of the informant.

10. 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, 1st, Jhanjharpur, Madhubani, in Bhairab Asthan PS Case No. 32 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 cooperate with the Court/police/prosecution. Any violation of the terms and conditions of the bonds or non-cooperation would lead to cancellation of their bail bonds.

11. 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 petitioner(s).

12. The application stands disposed off in the aforementioned terms.