

(2020) 10 PAT CK 0098

In the Patna High Court

Case No : Criminal Miscellaneous No. 79108 Of 2019

Kamlesh Yadav @ Kamlesh Kumar Yadav And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 20-10-2020

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 149, 307, 323, 324, 325, 341, 379, 504
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2020) 10 PAT CK 0098

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Bhola Prasad, Narendra Kumar Singh

Final Decision : Disposed Of

Judgement

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.
2. Heard Mr. Bhola Prasad, learned counsel for the petitioners and Mr. Narendra Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.
3. The petitioners apprehend arrest in connection with Pirpainti PS Case No. 208 of 2019 dated 06.09.2019, instituted under Sections 147/148/149/341/323/324/307/325/379/504 of the Indian Penal Code.
4. The allegation against the petitioners is that they along with four others brutally assaulted the informant and took away Rs. 84,000/- cash and a mobile.
5. Learned counsel for the petitioners submitted that the main allegation is against co-accused Bobby Yadav and the petitioners and others are said to have also assaulted the informant, but the same is general and omnibus. However, learned counsel submitted that the incident took place at 6.30 PM in the evening and due to such bad assault, the informant became unconscious and later after

managing to save himself, he came to his house and from there he went for medical treatment and after that he came to the police station. It was submitted that all this happened within three hours of the incident as the FIR shows that it has been lodged at 9.30 PM on the same day. Learned counsel submitted that the conduct of the informant of lodging the FIR in the police station within three hours itself shows that there was no such incident or the incident, by any person, was not so serious. Learned counsel submitted that even the injury report discloses that there is no injury, either on the chest or head of the informant and all the injuries, which are simple in nature, are either on the hands or the legs. Learned counsel submitted that there is history of past enmity and petitioner no. 1 has no criminal antecedent and petitioners no. 2 and 3 are accused in one other criminal case, which has been lodged by the same informant side due to longstanding enmity.

6. Learned APP, from the case diary, submitted that there is injury all over the body. However, he did not dispute the fact that there is no injury, either on the chest or on the head. He also submitted that the case diary discloses that there is no criminal antecedent against the petitioners. Further, it was not controverted that the injury report discloses that the same were simple in nature caused by hard and blunt substance.

7. 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 Additional Chief Judicial Magistrate-XI, Bhagalpur in Pirpanti PS Case No. 208 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further, (i) 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 criminal activity, 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.

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