

(2021) 08 PAT CK 0094

In the Patna High Court

Case No : Criminal Miscellaneous No. 22168 Of 2021

Kesh Nath Yadav @ Kesh Nath Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 27-08-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 323, 341, 354B, 504

Arms Act, 1959 — Section 27

Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2021) 08 PAT CK 0094

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Sanjay Kumar Tiwary, Ajay Kumar No. 2

Final Decision : Disposed Of

Judgement

1. 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, which was allowed.
3. Heard Mr. Sanjay Kumar Tiwary, learned counsel for the petitioners and Mr. Ajay Kumar No. 2, learned Additional Public Prosecutor (hereinafter referred to as the "APP") for the State.
4. The petitioners apprehend arrest in connection with Sasaram (M) PS Case No. 362 of 2020 dated 21.11.2020, instituted under Sections 341, 323, 354B, 504 and 307/34 of the Indian Penal Code and 27 of the Arms Act, 1959.
5. The allegation against the petitioners is of assault on the informant and also on victim Kamla Devi, who is said to have received pellet injury below her right eye. The genesis is said to be a dispute relating to the informant's son having taken fish out of the pond belonging to the accused side.

6. Learned counsel for the petitioners submitted that a simple incident was blown out of proportion and the same was also between young persons

from the two sides. It was submitted that from the petitioners's side also Sasaram (M) PS Case No. 361 of 2020 has been filed earlier to the

present case and the fact is that the pond was of the petitioners from which the informant's son had taken out fish. It was submitted that the

petitioners have clean antecedent and further that the specific allegation of having caused pellet injury on Kamla Devi is against Rintu Yadav, who is

not a petitioner herein. Learned counsel submitted that now both the parties have compromised the matter and good relationship has been established

between them. In this connection, he drew the attention of the Court to Annexure 4, which is copy of the compromise petition filed before the Court

concerned. Learned counsel submitted that even otherwise, no serious injuries have been caused to any of the so-called victims.

7. Learned APP submitted that for a small issue, the petitioners had committed such offence. However, in view of the compromise, it was not

controverted that the matter has been settled between the parties.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that for a trivial issue

two sides, who are co-villagers have clashed and there may have been some injuries caused on both the sides, but for the larger interest of justice and

taking into note that there has been compromise, the Court is inclined to allow the prayer so that the compromise is further fortified and does not fail

just because the petitioners have to suffer some adverse consequences.

9. Accordingly, 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 Chief

Judicial Magistrate, Rohtas at Sasaram in Sasaram (M) PS Case No. 362 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 and give undertaking with regard to good behaviour of the petitioners and (iii) that they shall co-operate with the Court and

police/prosecution. Any violation of the terms and conditions of the bonds or the

undertaking or failure to co-operate shall lead to cancellation of their bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions 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.

11. The petition stands disposed of in the aforementioned terms.