
(2021) 04 PAT CK 0063

In the Patna High Court

Case No : Criminal Miscellaneous No. 33942 Of 2020

Radhey Shyam Yadav And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 09-04-2021

Acts Referred:

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

Citation : (2021) 04 PAT CK 0063

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Kaushal Kishore Mishra, Md. Arif

Final Decision : Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. Heard Mr. Kaushal Kishore Mishra, learned counsel for the petitioners and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.
3. The petitioners apprehend arrest in connection with Mairwa PS Case No. 168 of 2020 dated 20.06.2020, instituted under Sections 323/324/379/504/34 of the Indian Penal Code.
4. The allegation against the petitioners is of assault and taking away of mangal sutra and specifically against the petitioner no. 2 of inflicting blow with rod on the leg of the informant, whereas against petitioner no. 4 is of giving farsa blow on the neck of the daughter of the informant whereas against petitioner no. 5 is of snatching of mangal sutra from the neck of the informant.
5. Learned counsel for the petitioners submitted that the allegations are cosmetic and even the injury report does not support the FIR version, as the same has been found to be simple as far as the petitioners are concerned, though co-

accused Rajendra Yadav is said to have inflicted blow with iron rod on the left hand of the husband of the informant resulting in fracture. It was submitted that the police have not found the case true against co-accused Gopal Chaudhary, Rajendra Chaudhary and Yogendra Choudhary and admittedly there is land dispute and one title appeal is also pending between the parties. Learned counsel submitted that in fact it was the informant side which was the aggressor for which Mairwa PS Case No. 169 of 2020 has been filed.

6. Learned APP submitted that the petitioners have assaulted the informant side and have also snatched mangal sutra from the neck of the informant.

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 Additional Chief Judicial Magistrate-VII, Siwan in Mairwa PS Case No. 168 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 his 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. 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.

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