

(2020) 08 PAT CK 0074

Patna High Court

Case No: Criminal Miscellaneous No. 77881 Of 2019

Krishna Mohan Kumar And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Aug. 31, 2020

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 308, 323, 324, 325, 341, 379, 380, 427, 448, 504, 506
- Dowry Prohibition Act, 1961 - Section 3, 4
- Code Of Criminal Procedure, 1973 - Section 438(2)

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Praveen Kumar Agrawal, Zainul Abedin

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. Praveen Kumar Agrawal, learned counsel for the petitioner and Mr. Zainul Abedin, learned Additional Public Prosecutor (hereinafter referred to as the "APP") for the State.
3. The petitioners apprehend arrest in connection with Alouli PS Case No. 375 of 2018 dated 18.10.2018, instituted under Sections 341, 323, 325, 324, 308, 379, 504 and 506 of the Indian Penal Code.
4. The allegation against the petitioners and one other is of assault by sword and lathi and against another co-accused of snatching of gold chain.

5. Learned counsel for the petitioner submitted that they have been falsely implicated and, in fact, the present case has been lodged as a counter blast of Alouli PS Case No. 370 of 2018 dated 16.10.2018, which was lodged by the petitioner no. 1 against the informant and others for an incident which took place on 16.10.2018 itself under Sections 341, 323, 448, 380, 506, 427/34 of the Indian Penal Code. Learned counsel submitted that the present case has been lodged after two days on 18.10.2018 for which there is no explanation as the incident is said to have taken place on 16.10.2018.

Learned counsel submitted that even the allegations are general and omnibus and the severity of the injuries is not corroborated from the Injury Reports. It was submitted that the Injury Reports disclose the same to be simple in nature and, initially, with regard to two victims the report was reserved, but later on after x-ray the same has also been indicated to be simple. Learned counsel submitted that the petitioners have no criminal antecedent and there is land dispute between the parties. Learned counsel further submitted that there was skirmish between the two parties due to previous land enmity in which there may have been injuries on both the sides, but there is no allegation of any repetition of blow to indicate that the petitioners had acted with predetermined to cause serious injury.

6. Learned APP, from the case diary and Injury Reports, submitted that charge-sheet has been submitted only against the petitioners. However, he did not controvert that the injury reports disclose the nature to be simple and that against the informant, the petitioner side has filed a case two days earlier to the present case, with regard to the same incident.

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 ACJM, 3rd, Khagaria, in Alouli PS Case No.375 of 2018, 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 behavior 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 aforesaid terms.