

(2021) 06 PAT CK 0028

Patna High Court

Case No: Criminal Miscellaneous No. 50 Of 2021

Ajay Rai @ Ajay Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: June 14, 2021**Acts Referred:**

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

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Vinod Kumar, Renu Kumari**Final Decision:** Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. The matter has been heard out of turn on the basis of motion slip being filed by learned counsel for the petitioners on 10.06.2021, which was allowed.
3. Heard Mr. Vinod Kumar, learned counsel for the petitioners and Ms. Renu Kumari, learned Additional Public Prosecutor (hereinafter referred to as the "APP"™) for the State.
4. The petitioners apprehend arrest in connection with Parihar PS Case No. 73 of 2020 dated 01.06.2020, instituted under Sections 341, 323, 324, 307/34 of the Indian Penal Code.
5. The allegation against the petitioners and nine others named and some unknown persons is that they had assaulted the two brothers of the

informant. However, it is specific against the petitioners that they had iron rod in their hand and two other co-accused had farsa, who inflicted grievous injury on the brother of the informant.

6. Learned counsel for the petitioners submitted that they are agnates and there is no specific allegation against them and only that they had iron rod in their hands, but against other co-accused, there is specific allegation of having inflicted blow by farsa and even the injury report discloses injuries on the victims attributable to sharp cutting object. Thus, it was submitted that the petitioners cannot be said to be the inflictors of such wounds. Further, it was submitted that, in fact, the informant side were the aggressors for which co-accused Vijay Kumar has lodged a case for the incident under Sections 341, 323, 324, 379, 504, 506/34 of the Indian Penal Code to which Section 307 Indian Penal Code has later been added during investigation, being Parihar PS Case No. 74 of 2020 dated 01.06.2020. Learned counsel submitted that the petitioners have no criminal antecedent.

7. Learned APP submitted that the petitioners were part of the mob which has attacked the informant side. However, she did not controvert the injury report, copy of which has been brought on record, indicates that wounds arising out of sharp cutting weapon have been found and the petitioners are not attributed with having given any blow with sharp cutting weapon.

8. 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 concerned learned Judicial Magistrate, 1st Class, Sitamarhi, in Parihar PS Case No. 73 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 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.

9. 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.

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