

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22663 of 2020

Arising Out of PS. Case No.-21 Year-2020 Thana- UCHKAGAON District- Gopalganj

1. Md. Abbas @ Md. Aabaas @ Abbas Alam Son of Late Wahab Miyan @ Md. Ohab Resident of Village - Nawada Parsauni, P.S. - Uchkagaon, District - Gopalganj.
2. Ajajul Haque @ Reyajul Haqu Son of Ehsan Mohamad @ Ehsan Alam @ Ahsan Mohammad @ Ehsan Ahmad Resident of Village - Nawada Parsauni, P.S. - Uchkagaon, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Dr. Amrendra, Advocate
		Mrs.Sanjana, Advocate
For the Opposite Party/s :		Mr.APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-09-2020 The Court proceeding has been conducted through virtual mode.

Heard learned counsel for the petitioners and learned APP for the State.

Since the court proceeding in physical mode is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the petitioners undertakes to remove the defects within three weeks of resumption of court proceeding in physical mode. In the eventuality of non-removal



of defects within undertaken period, the office will place the matter before the bench.

The petitioners are languishing in custody since 10.02.2020 in a case registered for the offences punishable under Sections 302/34 of the Indian Penal Code, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the fardbeyan of Jainara Khatoon recorded by S.I. Govind Prasad Yadav on 24.01.2020 at 11.10 A.M. at Sadar Hospital, Gopalganj, is to the effect that on 23.01.2020 at 5.00 P.M. the informant was sitting with her mother near the door, in the meantime, the uncle and brother, Mainuddin Alam @ Jokhan, Ahsan Mohammad and petitioners, Md. Abbas and Ajajul Haque came and in the background of the dispute with regard to the pathway, they assaulted the mother of the informant. It is specifically alleged that co-accused Mainuddin Alam @ Jokhan assaulted with iron road on the head of the mother of the informant and thereafter, others also assaulted. On alarm being raised by the informant, the neighbour people saved the mother of the informant. Thereafter, the mother of the informant was taken to Sadar Hospital, Gopalganj where she succumbed to the injury.



It is submitted by learned counsel for the petitioners that the specific accusation of assault with iron rod on the head of the mother of the informant is against co-accused Mainuddin Alam @ Jokhan but the postmortem report suggests that the injury has been found on both legs and left hand of the mother of the informant. The accusation is omnibus and general. The non-corroboration of the accusation suggests that the informant is not an eye witness to the alleged occurrence and investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP for the State submits that the petitioners are named in the FIR and though there is specific accusation of assault against co-accused Mainuddin Alam @ Jokhan but the petitioners were also sharing the common intention.

Considering the fact that the accusation against the petitioners is omnibus and general, the specific accusation of assault is against co-accused Mainuddin Alam @ Jokhan, though the said accusation of assault is not corroborated by medical opinion, the investigation has already been concluded and the genesis of the occurrence being dispute with regard to



the pathway, coupled with the statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the petitioners above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Additional Chief Judicial Magistrate-IX, Gopalganj in connection with Uchakagaon P.S. Case No. 21 of 2020.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-IX, Gopalganj in connection with Uchakagaon P.S. Case No. 21 of 2020.

The learned Court below is at liberty to further



extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

DKS/-

U		T	
---	--	---	--

