

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM OFFICIAL CHAMBERS VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.10865 of 2021**

Arising Out of PS. Case No.-46 Year-2020 Thana- NOKHA District- Rohtas

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1. RAMESH MALI S/o Late Dudh Nath Mali R/o village- Baraon, P.S.- Nokha, District- Rohtas at Sasaram
 2. Chandan Mali S/o Sri Krishna Mali R/o village- Baraon, P.S.- Nokha, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vikram Deo Singh, Adv. Mr. Chhote Lal Mishra, Adv.
For the Opposite Party/s	:	Mr. Nirmal Kumar Sinha, APP
For the Informant	:	Ms. Manini Jaiswal, Adv.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 14-09-2021 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners, learned counsel for the informant and Mr. Nirmal Kumar Sinha, learned A.P.P. for the State.

Petitioners in the present case are seeking regular bail in connection with Nokha P.S. Case No.46/2020 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 307 and 302 of the Indian Penal Code and Section 27 of the Arms Act. They are in custody since 16.09.2020. The petitioners have got no criminal antecedent.

As per the prosecution story, while the father and

mother of the informant were busy in their gausala to serve the fodders to the cattles, altogether 12 named accused persons came there and started assaulting both of them. They assaulted the cousin brother of the informant Pappu Mali. It is alleged that when the informant saw that a large number of persons had assembled at his house, he left cutting the grass and came towards the house where Chandan Mali stopped him at the point of gun and threatened him that if he would proceed, he would be killed. It is specifically alleged that co-accused Sri Bhagwan Mali assaulted the father of the informant on his head by an iron rod. Because of the said assault, the father of the informant suffered head fracture and fell down. It is then alleged that after he fell down Ramesh Mali (petitioner no.1), Krishna Mali and Jitendra Mali assaulted his father by butt of the gun and spade respectively. It is then alleged that his mother was assaulted by Ramayan Mali, Chandan Mali, Shanti Devi and Sita Devi. The specific allegation has again been made against one Lalti Devi who had assaulted the mother of the informant on her head by an iron rod.

Learned counsel for the petitioners submits that the only injury found on the head of the deceased does not corroborate the manner of occurrence as alleged by the informant. The specific allegation causing head injury to the father of the informant has been made against co-accused Sri Bhagwan Mali. Apart from the

head injury two other injuries have been noticed, one on the chin and another on the shoulder of the father of the informant.

Learned counsel further submits that the allegation of assault upon the mother of the informant is general and omnibus. The co-accused Ramayan Mali has been granted bail in Cr.Misc.No.13315/2021 whereas the prayer for bail of Krishna Mali has been rejected in Cr.Misc.No.1950/2021.

Learned APP for the State as well as learned counsel for the informant have opposed the prayer for regular bail of the petitioner. It is submitted that these two petitioners have also actively participated in the alleged occurrence.

Considering the facts and circumstances of the case wherein the specific allegation of causing assault on the head of the father of the informant has been made against co-accused Sri Bhagwan Mali and that injury has proved fatal for life, so far as the allegation against petitioner no.1 is concerned that he and Krishna Mali had assaulted by butt of the gun is not getting substantiated from the postmortem report which contains only one head injury and further that the allegation against co-accused Chandan Mali (petitioner no.2) is general and omnibus, they have remained in jail for about one year and investigation against them is complete, let both the petitioners above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five

Thousand only) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Rohtas at Sasaram in connection with Nokha P.S. Case No.46/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.