

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.12985 of 2021**

Arising Out of PS. Case No.-670 Year-2020 Thana- ARARIA District- Araria

1. MD. HAIDER AZAD Son of Khurshid Resident of Village Budeshwari Ward No. 8 P.O. Mohanpur, P.S. Bairgachhi, District - Araria.
2. TIPPU SULTAN, SON OF KHURSHID, RESIDENT OF VILLAGE BUDESHWARI WARD 8 P.O. MOHANPUR P.S. BAIRGACHHI

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Madhuranand Jha, APP

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

2 16-06-2021 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 and learned A.P.P. for the State.

Petitioners in the present case are seeking regular bail in connection with Bairgachhi Araria P.S. Case No. 670 of 2020 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 325, 302 and 504 of the Indian Penal Code.

Learned counsel for the petitioners submits that as per the prosecution story when the informant was repairing his kitchen fencing then one co-accused Khurshid came and



stopped the repairing work and started abusing and threatening to kill him. When the informant protested then the petitioners and other accused persons variously armed came and assaulted informant's brother (deceased) on kanpati by a dabia due to which he suffered injuries and fell down. It is further alleged that informant's mother who tried to rescue the deceased has also been assaulted by rod due to which her hand got fractured. After hearing the noise neighbors gathered at the spot and the accused persons fled away. Informant's brother and mother were taken to the Sadar Hospital, Araria where his brother was declared dead.

Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. It is further submitted that there is a general and omnibus allegation against the petitioners as regards assault upon the brother of the informant, the specific allegation of assault upon the brother of the informant has been made against co-accused Khurshid. Learned counsel submits that the petitioners have got no criminal antecedent and are in custody since 22.08.2020.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioners.

Having heard learned counsel for the petitioners and



learned A.P.P. for the State and upon noticing the submissions that in the First Information Report altogether five persons have been named as accused and had been allegedly lashed with weapons, however, no specific weapon has been attributed to these petitioners and there is a general and omnibus allegation against them as regards assault upon the brother of the informant, the specific allegation of assault upon the brother of the informant who later on succumbed to his injury has been made against co-accused Khurshid, it is the said Khurshid who had assaulted on the kanpati on the deceased by dabia and after the said assault the brother of the informant has suffered injuries and fell down, so far as petitioner no. 1 is concerned, it is alleged that he had assaulted the mother of the informant by rod and caused fracture of her hand, however, there is no specific allegation against the petitioner no. 2, the petitioners have otherwise no criminal antecedent, in the given facts and circumstances of the case while this Court is not inclined to enlarge the petitioner no. 1 on bail at this stage, let the petitioner no. 2 be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria in connection with Bairgachhi P.S.



Case No. 670 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner no. 2 and in case at any stage it is found that the petitioner no. 2 has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner no. 2. 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.

Let the trial court take efforts to conclude the trial as early as possible preferably within a period of nine months from



today. If the trial is not concluded within nine months from today for no reasons attributable to petitioner no. 1, he may renew his prayer for bail.

This application stands disposed of accordingly.

(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'.

