

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27661 of 2021

Arising Out of PS. Case No.-1 Year-2021 Thana- BAHERA District- Darbhanga

1. MD. ALTOMUS @ MISVOHUL SALAM Son of Absus Salam Ansari Resident of Village - Quziyan, P.S.- Bahera, Distt.- Darbhanga.
2. MD. OSAMA @ AJAAJUL SALAM Son of Absus Salam Ansari Resident of Village - Quziyan, P.S.- Bahera, Distt.- Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sarva Deo Singh, Adv.
For the Opposite Party/s	:	Mr.Md. Iftekhar Mahmood, APP
For the informant	:	Mr. Vinay Kumar Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 21-10-2021 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. Md. Iftekhar Mahmood, learned A.P.P. for the State.

Petitioners in the present case are seeking regular bail in connection with Bahera P.S. Case No.01/2021 registered for the offences punishable under Sections 504, 341, 323, 324, 354(B) and 307/34 of the Indian Penal Code. They are in judicial custody since 02.01.2021. Both the petitioners are having clean antecedent.



Learned counsel for the petitioners submits that the present case has been lodged on the basis of the fardbeyan of one Shamima Khatoon recorded on 21.12.2020 in respect of the occurrence which took place on 17.12.2020. According to the informant there had been an altercation between the informant and her co-villager Abdul Salam Ansari on the construction of a drainage on the government land. According to the informant on 17.12.2020 when a tractor went on that drainage the said Abdul Salam Ansari started abusing the informant but he did not stop and thereafter he called his family members including these two petitioners who are the sons of said Abdul Salam Ansari.

As per the F.I.R., the said Abdul Salam Ansari assaulted the informant by a garasa on the head of the informant causing her serious injuries, she started bleeding and thereafter it is alleged that the other accused persons were assaulting her by hand and fist blow. The further allegation is that when in order to save her, her son Md. Manavar Ansari and husband Md. Yusuf Ansari and another son Monu came there then the petitioner no.1 is said to have assaulted her husband by a garasi causing injury to him and petitioner no.2 assaulted both the sons of the informant causing injuries on their head. Thereafter, the accused persons allegedly fled away.



Learned counsel for the petitioners submits that from the F.I.R. itself it would appear that in respect of the occurrence of 17.12.2020 the fardbeyan was recorded on 21.12.2020 but the present F.I.R. has been lodged on 01.01.2021. Learned counsel submits that the informant later on died in course of treatment after she developed Septicemia.

It is further pointed out that the co-accused Abdul Salam Ansari against whom there is a specific allegation that he had assaulted on the head of the informant by a garasi has been granted bail by a learned coordinate Bench of this Court in Cr.Misc. No.28770/2021 after noticing that the cause of death is due to Septicemia and shock due to injuries caused by hard and blunt object.

Learned counsel further submits that so far as the husband and sons of the informant are concerned, they are said to have received single injury and there is no allegation of repetition of blow against the petitioners. Their case stand on better footing than that of Abdul Salam Ansari who has been granted bail in Cr.Misc.No.28770/2021.

Learned counsel for the informant has opposed the prayer for bail of the petitioners. In course of argument on the query made by this court, learned counsel for the informant accepts that the specific allegation of assault on the informant



(since deceased) is against the co-accused Abdul Salam Ansari and not against these two petitioners and further that the said Abdul Salam Ansari has been granted bail.

Having regard to the facts and circumstances of the case and on finding that so far as causing injury to the deceased is concerned, the same is specific against Abdul Salam Ansari and not against these petitioners and further that the alleged occurrence took place over construction of a drainage system, the petitioners have no criminal antecedent, they are said to be student of Post-Graduation and Graduation final year as stated in paragraph '7' of the present petition, they have remained in custody since 02.01.2021 and investigation against them is complete but the trial is not likely to take place in near future, this Court directs that 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 A.C.J.M., Benipur, Darbhanga in connection with Bahera P.S. Case No.01/2021, 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'.

