

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4809 of 2021**

Arising Out of PS. Case No.-193 Year-2019 Thana- ADAPUR District- East Champaran

1. Murtuja Hawari, aged about 35 years, Male, son of Almiuddin Hawari,
2. Sabir Hawari, aged about 26 years, Male, son of Sarmullah Hawari,
3. Jakir Hawari, aged about 41 years, Male, son of late Jitu Hawari.
4. Saddam Hawari, aged about 28 years, Male, son of Sarmullah Hawari.
All resident of Village - Jamunbhar, P.S. - Adapur, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar, Advocate
For the State	:	Mr. Bal Mukund Prasad Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 10-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 04.08.201, which was allowed.

3. Heard Mr. Jitendra Kumar, learned counsel for the petitioners and Mr. Bal Mukund Prasad Sinha, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. Learned counsel for the petitioners submitted that he would remove the defect(s) as pointed out in the Stamp Reporting within one week from today. Let the same be done.

5. Learned counsel for the petitioners submitted that he may permitted to withdraw the petition on behalf of the



petitioner no. 4, namely, Saddam Hawari, as he has been arrested.

6. In view thereof, as prayed for by learned counsel for the petitioners, the petition on behalf of the petitioner no. 4, Saddam Hawari, stands disposed off as withdrawn and is restricted to petitioners no. 1, 2 and 3, namely, Murtuja Hawari, Sabir Hawari and Jakir Hawari respectively.

7. The petitioners no. 1, 2 and 3 apprehend arrest in connection with Adapur PS Case No. 193 of 2019 dated 12.08.2019, instituted under Sections 341, 323, 324, 307 and 302/34 of the Indian Penal Code.

8. The allegation against the petitioners no. 1, 2 and 3 is that, they along with others, assaulted the informant and his family members with *lathi*, *danda* and rod and further, against co-accused, Kaushar Hawari and Mustafa Hawari, of having assaulted Tahir Mian with *farsa* and iron rod respectively causing his death.

9. Learned counsel for the petitioners no. 1, 2 and 3 submitted that the parties are agnates and there is also a counter case for the same incident which happened due to property dispute. It was submitted that there is only general and omnibus allegation of assault against the petitioners no. 1, 2 and 3 and the



specific allegation of assault on the deceased Tahir Mian, is against co-accused Kaushar Hawari and Mustafa Hawari, who are not the petitioners herein. Learned counsel submitted that the father of the petitioner no. 1 also died in the incident. Further, it was submitted that the petitioners have no criminal antecedent. Learned counsel submitted that the allegation against the petitioners no. 1, 2 and 3 is that they assaulted the family members of the informant with *lathi*, *danda*, rod, but no injury report has been brought on record.

10. Learned APP submitted that one person each has died from both the sides and the incident was serious. However, he did not controvert the fact that the deceased, Tahir Mian, is said to have been assaulted specifically by co-accused, Kaushar Hawari and Mustafa Hawari, who are not before the Court in the present petition.

11. 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 no. 1, 2 and 3, namely, Murtuja Hawari, Sabir Hawari and Jakir Hawari 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 learned Sub Divisional Judicial Magistrate, Raxaul, East Champaran, at Motihari, in Adapur PS Case No. 193 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 no. 1, 2 and 3, (ii) that the petitioners no. 1, 2 and 3 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners no. 1, 2 and 3, and (iii) that the petitioners no. 1, 2 and 3 shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of their bail bonds.

12. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners no. 1, 2 and 3, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners no. 1, 2 and 3.

13. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

AFR/NAFR	
U	
T	

