

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40240 of 2020

Arising Out of PS. Case No.-159 Year-2020 Thana- NAANPUR District- Sitamarhi

1. MD. KAISH Son of Kasim Nadaf Resident of Village - Birar, Aliman Tola, P.S. - Nanpur, District - Sitamarhi.
2. ZAFIR NADAF @ ZAFIR ALAM Son of Late Hashim Nadaf Resident of Village - Birar, Aliman Tola, P.S. - Nanpur, District - Sitamarhi

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa , Advocate
For the Opposite Party/s : Mr. Dinesh Jha, Advocate
Mr. Nawal Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

4 12-04-2021 Heard Mr. Ashhar Mustafa, learned counsel for the petitioners, Mr. Dinesh Jha, learned counsel for the informant and Mr. Nawal Kishore Prasad, learned counsel appearing for the State through video conferencing.

Petitioners seek regular bail in connection with Nanpur P.S. Case No. 159 of 2020 registered for the offence under Sections 147, 149, 323, 324 , 341, 307, 302, 379, 504 of the I.P.C.

The allegation as per the First Information Report is that all the accused persons (16 in number) surrounded the informant and the petitioner no. 2 pointed sword towards the informant and threatened to kill him and when the informant protested, all the accused persons started assaulting him by



means of “*lathi*”, “*farsa*”, sword etc. and they also snatched Rs. 1 Lakh Cash, A.T.M. and other papers from the informant. It has also been alleged that upon “*hulla*” raised by the informant the father of the informant namely, Md. Zahid, Uncle and other persons arrived at the place of occurrence in order to rescue the informant, however the accused persons assaulted his father over his head and other parts of the body due which he died subsequently.

Learned counsel for the petitioners submits that petitioners have not committed any offence in the manner alleged and they have been implicated in this case due to previous dispute between the parties regarding *Madarsa* inasmuch as the Principal of the “*Madarsa Darul Uloom Aminia*” had lodged an F.I.R. bearing Nanpur P.S. Case No. 339 of 2019. Learned counsel next submits that the fact of the matter is that the informant of the present case is a teacher in said “*Madarsa Darul Uloom Aminia*” which was granted affiliation through fraudulent means i.e. by showing the land and structure of “*Madarsa Islamia Talimul Quran*” managed by the petitioners. Learned counsel next submits that no *Madarsa* in the name and style of “*Madarsa Darul Uloom Aminia*” exists on the ground. Learned counsel next submits that petitioners and



others immediately protested the fraudulent action of the informant and filed Complaint Case No. 367 of 2019 in the court of SDJM, Pupri, Sitamarhi on 11.12.2019. Learned counsel further submits that allegation against the petitioners is general and omnibus in nature and no specific overt act has been attributed to the petitioners. Learned counsel next submits that from perusal of the post-mortem report (Annexure – “4” to the petition) it would be evident that only one injury has been found on the head of the person of the father of the informant and the doctor has opined the cause of death “due to haemorrhage and shock leading to C/R failure as a result of injuries caused by hard and blunt object”. Learned counsel next submits that there is case and counter case between the parties inasmuch the petitioner no. – 2 has lodged a counter case bearing Nanpur P.S. Case No. 161 of 2020 for an offence which had taken place on the same date and time in which the petitioner no. – 2 has also received injuries which would be evident from the injury report of the petitioner no. 2 (Anenxure– “6 Series” and the photographs).

On the other hand, learned counsel for the informant vehemently opposes the prayer for bail and submits that during the course of investigation in paragraphs nos.– 28, 27 & 52 the



injured witnesses have stated that the petitioner no. – 2 had snatched the bag containing Rs. 1 Lakh and assaulted the informant and his family members due to which his father died and altogether four persons received injuries. Learned counsel further submits that in F.I.R. there may not be specific allegation against the petitioner no.– 2 but subsequently during the course of investigation all the injured witnesses and other independent witnesses have stated regarding the involvement of the petitioner no.– 2 specifically in the present offence.

Having regard to the submissions made by learned counsel for the parties and taking into consideration the materials available on record, the nature of allegation, the fact that there is case and counter case between the parties relating to dispute regarding *Madarsa*, there is no specific allegation against the petitioners in the First Information Report regarding assault made to the father of the informant and others, the petitioners are in custody since 20.05.2020 and charge sheet has already been submitted, I am inclined to grant regular bail to the petitioners.

Accordingly, let the petitioners, above named, be released on regular bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to



the satisfaction of learned SDJM, Pupri, Sitamarhi in connection
with Nanpur P.S. Case No. 159 of 2020.

It is made clear that at the time of furnishing bail bond
all the parties shall follow the guidelines regarding social
distancing.

(Anil Kumar Sinha, J)

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