

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 2091 of 2021

Arising Out of PS Case No.-349 Year-2020 Thana- SITAMARHI District- Sitamarhi

1. Md. Jassem, Male, aged about 35 years, Son of Md. Jainul Raien.
2. Md. Mustafa, Male, aged about 45 years, Son of Md. Jainul Raien.
Both are resident of Village - Mehsaul Purbi, Ward No. 6, Police Station - Sitamarhi, District – Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the State	:	Mr. Jagdhar Prasad, APP
For the Informant	:	Mr. Shankar Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-07-2021

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 petitioners on 02.07.2021, which was allowed.

3. Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioners; Mr. Jagdhar Prasad, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Shankar Kumar, learned counsel for the informant.

4. The petitioners apprehend arrest in connection with Sitamarhi PS Case No. 349 of 2020 dated 10.07.2020, instituted



under Sections 341, 323, 324, 307, 504 and 302/34 of the Indian Penal Code.

5. The allegation against the petitioners and others is of assaulting the informant and his other relatives and specifically against the petitioners is that they had assaulted by iron rod one Md. Neyaz and further that due to the assault by others, one person also died.

6. Learned counsel for the petitioners submitted that though there is allegation against the petitioners and others of being at the place of occurrence when other co-accused had assaulted Md. Chand, Md. Saddam and Md. Aftab and others but specifically against the petitioners is only that they had assaulted by iron rod Md. Neyaz. It was submitted that the injury report of Md. Neyaz reveals that only lacerated wound on right elbow, $\frac{1}{2}$ inch x $\frac{1}{4}$ inch, skin deep has been found, which is simple in nature caused by hard blunt substance. It was submitted that the petitioners have no criminal antecedent.

7. Learned APP submitted that the petitioners were part of a larger group which had assaulted others also and one person had died due to such assault and, thus, they are equally responsible for such death.



8. Learned counsel for the informant submitted that there was common intention of all and even if the petitioners are not alleged to have specifically assaulted the deceased, they had common intention and in pursuance of that intention, death had occurred. It was submitted that two other accused have been granted regular bail by the Court and in the present case after submission of charge-sheet, trial has commenced under Trial No. 105 of 2021, of the said two arrested persons has begun after framing of charge.

9. 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 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 Chief Judicial Magistrate, Sitamarhi in Sitamarhi PS Case No. 349 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, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, and (iii) that the petitioners shall also give an undertaking to the Court that they



shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

11. The petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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