

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12167 of 2021

Arising Out of PS. Case No.-425 Year-2020 Thana- MADHEPURA District- Madhepura

1. MD.ZOOBAIR @ MD. JUBER @ MD. JUBAIR Son of Late Md. Kashim @ Quasim Resident of Madhepura, Ward No. 12, P.S. and District- Madhepura.
2. Md. Umar Son of Late Md. Kashim @ Quasim Resident of Madhepura, Ward No. 12, P.S. and District- Madhepura.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajendra Prasad Sah
For the Opposite Party/s : Mr.Zainul Abedin

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 10-02-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders” under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioners and the State through virtual mode.

The petitioners are apprehending their arrest in Madhepura P.S. Case No. 425 of 2020 registered for the offence under Sections 147, 148, 149, 342, 323, 324, 307, 504, 354(A), 379 of the Indian Penal Code.

Allegedly, while the informant was going to the house of his brother-in-law and in the way, the accused persons named in the FIR along with 7-8 unknown miscreants being armed with farsa,



Gadansa, steel-stick and lathi surrounded him and in consequence thereof, the petitioner No. 2 is said to have given Gadansa blow on the head of the informant while petitioner No. 1 is said to have given farsa blow on the head of one Arman.

It has been submitted on behalf of the petitioners that there is no allegation of tampering of witnesses alleged against the petitioners. The petitioners have been falsely implicated in the present case. So far petitioner No. 1 is concerned, he is alleged to be order-giver and has given a farsa blow upon one Arman. The nature of injury sustained by Arman is said to be simple which is apparent from the order of the Sessions Court. So far petitioner No. 2 is concerned, he is alleged to have given Gadansa blow on the head of the informant. The nature of injury is said to be grievous.

On behalf of the State, it is submitted that the petitioners are named in the Complaint Case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances of the case, the petitioner No. 1, above named, in the event of arrest or surrender



before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bonds to the satisfaction of learned Chief Judicial Magistrate, Madhepura in connection with Madhepura P.S. Case No. 425 of 2020 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner No. 1 shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

So far as petitioner No. 2 is concerned, considering the fact that he gave Gadansa blow on the head of the informant as a result of which, the informant sustained grievous injury, his prayer for grant of anticipatory bail is rejected.

If the petitioner No. 2 surrenders in the court below and seeks regular bail, same shall be considered on its own merit without being prejudiced by this order.

(Sudhir Singh, J)

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