

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30283 of 2022

Arising Out of PS. Case No.-89 Year-2021 Thana- KHAJAULI District- Madhubani

1. Fekan Mandal S/o Late Sukhai Mandal, R/o village- Kanhauli Hariswara, P.S.- Khajauli, District- Madhubani, Bihar
2. Sharwan Mandal S/o Late Sukhai Mandal, R/o village- Kanhauli Hariswara, P.S.- Khajauli, District- Madhubani, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rabindra Nath Kanth, Advocate
For the State	:	Mr. Upendra Kumar, APP
For the Informant	:	Mr. Sanjay Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 18-11-2022 Heard learned counsel for the petitioners and learned APP for the State as well as learned counsel for the informant through video conferencing.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks.

In the present case, the petitioners seek bail in connection with Khajauli P.S. Case No. 89 of 2021 registered for the alleged offences under Sections 341, 323, 324, 143, 307, 504, 506, 34 of the Indian Penal Code.

As per prosecution case, the co-accused persons surrounded the informant and assaulted him with *Lathi, Danda, fists* and *slaps*. On call of the informant, his sons came for his rescue and they were also assaulted by the F.I.R. named co-



accused persons. The allegation against the petitioners is that they ordered the co-accused persons to assault one of the sons of the informant namely Ganesh Yadav and pursuant to the order given by the petitioners, he was assaulted by the F.I.R. named co-accused persons as well 10-15 unknown persons. The occurrence took place due to land dispute between the parties.

The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case due to land dispute and village politics. The informant is by nature a litigious person and the informant and his sons have filed cases against the petitioners with similar allegations. Moreover, from the facts of the case, it is apparent that there is no allegation against the petitioners for indulging in any overt act of assault or inflicting injury. They are merely stated to be order giver. The independent witnesses examined during investigation have not named the petitioners for being present at the place of occurrence. So, no offence under Section 324 and 307 of I.P.C. would be made out against the petitioners who have been arrested on 06.03.2022. The charge-sheet has been submitted.

Learned APP as well as learned counsel for the informant oppose the prayer for bail.

Having regard to the facts and circumstances and



submissions made on behalf of the parties and particularly considering the fact that the petitioners are stated to be order giver and no other specific over act has been attributed to them and also considering the period of custody of the petitioners and submission of charge-sheet, the petitioners above named are directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Madhubani in connection with Khajauli P.S. Case No. 89 of 2021 subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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