

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36949 of 2022

Arising Out of PS. Case No.-414 Year-2021 Thana- KUCHAIKOTE District- Gopalganj

1. Hameed Miyan Son Of Habib Miyan R/O Village- Chammari Patti, P.S.- Phulwariya, District- Gopalganj
2. Azad Miyan @ Azad Alam Son Of Hameed Miyan R/O Village- Chammari Patti, P.S.- Phulwariya, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Upendra Yadav, Advocate.

For the Opposite Party/s : Dr. Kumar Uday Pratap, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 25-08-2022 Today this case has been listed on the motion slip
filed by the learned counsel for the petitioners.

Learned counsel for the petitioners is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Upendra Yadav, learned counsel for the
petitioners as well as learned Additional Public Prosecutor for
the State.

The application for grant of bail to the petitioners,
above named, who have been made accused and put behind the
bar in connection with Kuchaikote P. S. Case No. 414 of 2021
registered for the offences punishable under Sections 341, 323,



324, 379, 506, 307 read with 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on 25.09.2021, while the informant was going to get some medicines, in the meantime, four persons on two motorcycles surrounded him and one of them assaulted over his head due to which he fell down, thereafter, allegedly Hameed Miyan, Azad Miyan and Sahabuddin Miya and one unknown person started assaulting the informant with iron rod. It is subsequently alleged that Azad Miya gave knife blow on the informant's head and Hameed Miya gave threatening on the point of *desi katta* and all the accused persons snatched his belongings.

Learned counsel appearing on behalf of the petitioners submitted that though there is specific allegation levelled against Azad Miyan and general and omnibus nature of allegation has been levelled against other co-accused persons but the same has not been corroborated by the injury report in as much as the injuries have been found to be simple in nature. It is next submitted that the present F.I.R. is nothing but a counter blast of Phulwariya P. S. Case No. 339 of 2021, lodged by the daughter of the petitioner no. 1 against the informant of this case and others alleging therein with regard to the indecent behaviour committed with her. It is further submitted that the petitioner



and the informant are neighbours and in fact on the alleged date of occurrence a free fight was taken place and in the scuffle the informant sustained some injury. He last submits that the petitioners are in custody since 05.05.2022 and moreover, after completion of the investigation, chage sheet has been submitted.

On the other hand, learned APP for the State opposes the bail application and submits that specific allegation has been levelled against both the petitioners that they have assaulted the informant.

Having considered the submissions made on behalf of the parties and taking into account the nature of allegation as well as the injuries, which have been found to be simple in nature, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Kuchaikote P. S. Case No. 414 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date



of trial till disposal of the case.

- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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