

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39823 of 2022

Arising Out of PS. Case No.-129 Year-2022 Thana- MINAPUR District- Muzaffarpur

1. Shamim Khan.
2. Kayum Khan.
Both Son of Oli Khan Resident of Village - Harpur Bakas, P.S.- Minapur,
District – Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Advocate

For the Opposite Party/s : Mr. Manoj Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 10-10-2022 Heard learned counsel for the petitioners, learned
counsel for the informant and the learned APP for the State.

Let the defect(s) be removed within four weeks of the
complete start of the physical Court in normal course.

The petitioners are in judicial custody in connection
with Minapur P.S. Case No.129 of 2022 instituted under
Sections 341, 342, 323, 324, 307, 504, 506/34 of the Indian
Penal Code.

As per the FIR, on 20.03.2022 when the informant
was sitting at the door of his house, his younger brother, Kayum
Khan came and started abusing him due to previous land
dispute. In the meantime, other accused persons arrived armed
with *lathi*, *danda*, *knife* and iron rod and started ‘Marjit’.
Kayum Khan gave repeated knife blow causing severe injuries



on the cheek and head of the informant who became unconscious and found himself later in Hospital. Accordingly, the FIR was lodged.

Learned counsel for the petitioners submits that so far as petitioner no.1 is concerned, there is no specific allegation against him. It is his further submission that both of them do not have any criminal antecedent.

Per contra, learned counsel for the informant submits that a bare perusal of the FIR would show that Kayum Khan gave repeated knife blow causing severe injuries on the cheek and head of the victim/informant. He further submits that even the petitioner no.1 was part of the unlawful assembly and on his presence in the alleged incident cannot be ignored.

Taking into account the fact that the specific allegation is there against the petitioner no.2, namely, Kayum Khan, this Court is not inclined to grant him any relief and his bail application is accordingly rejected.

So far as the petitioner no.1 is concerned, considering the fact that although he was variously armed, there is omnibus allegation against him of causing 'Marjit'. He is in custody since 21.03.2022 and as per para-3, he do not have criminal antecedent, this Court is inclined to grant him privilege of bail.



Let the petitioner no.1, namely, Shamim Khan be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Minapur P.S. Case No.129 of 2022 to the satisfaction of learned Chief Judicial Magistrate, Muzaffarpur, subject to following conditions:

(i) one of the bailor should be the family member of the petitioner no.1 who shall provide official document to show his/her bona fide;

(ii) the petitioner no.1 shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial court itself;

(iii) the petitioner no.1 shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner no.1 shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

(v) the petitioner no.1 shall desist from committing any criminal offence again failing which the State shall be at



liberty to take steps for cancellation of their bail bonds.

With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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