

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51614 of 2022

Arising Out of PS. Case No.-37 Year-2022 Thana- FESHAR District- Aurangabad

1. Istekhar Ahmad @ Iftekhar Ahmad, Son of Abdul Rauf @ Abdul Rauf Ansari, Resident of Village- Malanagar, Police Station- Fesar, District Aurangabad, Presently residing at Mohalla Nawadih (Ajmer Nagar), Ward No. 20 Police Station Aurangabad Town, District- Aurangabad.
2. Ainul Hoda, Son of Abdul Rauf @ Abdul Rauf Ansari, Resident of Village- Malanagar, Police Station- Fesar, District Aurangabad Presently residing at Mohalla Nawadih (Ajmer Nagar), Ward No. 20 Police Station Aurangabad Town, District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Md. Sufian, Advocate
		Mr. Ram Pravesh Nath Tiwari, Advocate
For the Opposite Party/s	:	Mr. Shailendra Kumar, APP
For the Informant	:	Mrs. Priyanka Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 09-12-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Md. Sufian, learned counsel for the petitioners, Mrs. Priyanka Singh, learned counsel for the informant and learned APP for the State through video conferencing.

The petitioners seek regular bail, who are in custody in connection with Fesar P.S. Case No. 37 of 2022 registered for the offences punishable under Sections 341, 323, 325, 307/34, 504, 506, 379 and 302 of the Indian Penal Code.



The prosecution case is based on a written report of the informant alleging therein that on 27.03.2022, while the husband of the informant and her two sons were returning to their home, in the meantime, all the eleven named accused persons variously armed with lathi, Danda, Khanti and Bhala surrounded them and started assaulting them. It is also alleged that the accused persons also snatched golden chain from the neck of her husband. It is further alleged that they sustained serious injuries and they sent to Sadar Hospital for better treatment where the husband of the informant died.

Learned counsel appearing on behalf of the petitioners submits that from the tenor of the F.I.R. it is evident that the informant is not the eye witness to the alleged occurrence, apart from the fact, general and omnibus allegation has been levelled against all the accused persons and no specific allegation has been attributed to the petitioners. He further submits that the deceased was initially examined by the doctor at Aurangabad and only two injuries were found on his body and even the post-mortem report does not suggest any injury on the vital portion of the body. However, the cause of death is shown to be injury caused over the head. He next submits that in fact on the alleged date and time of occurrence, the petitioners were even not



present at the place of occurrence, rather they were in Nawadih, Aurangabad and in order to support his submission, he is ready to produce the CCTV footage, which shows the innocence of the petitioners. The petitioners are in custody since 29.03.2022.

On the other hand learned APP for the State and the learned counsel for the informant vehemently opposed the bail application and submits that the specific allegation has been levelled against all the accused persons, who in furtherance of their common intention brutally assaulted the husband of the informant and her two sons, due to which her husband succumbed to the injuries.

Regard being had to the submissions made on behalf of the parties and considering the general and omnibus nature of allegation, apart from the injury report, which suggests only two injuries over the body of the husband of the informant and moreover the investigation of the crime is already complete and the petitioners are in custody since 29.03.2022, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Aurangabad in connection with Fesar P.S. Case No. 37 of 2022, subject to the condition that one of the



bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain physically 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 immediate step for cancelling the bail bond of the petitioners. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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