

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62652 of 2021**

Arising Out of PS. Case No.-41 Year-2021 Thana- PAHARKATTA District- Kishanganj

1. Naushad Alam, Son of Late Kamruddin,
2. Naiyar Alam @ Naiyar Faizee, Son of Late Kamruddin,
3. Md. Shafqat Azhar @ Shafqat Azhar @ Shafqat Alam, Son of Late Kamruddin,
4. Md Aslam @ Aslam, Son of Late Kamruddin
All are resident of Village-Parla Bari, P.S.-Pahar Katta, District- Kishanganj.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Radha Mohan Singh, Advocate

For the Opposite Party : Md. Aslam Ansari, APP

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER**

2 05-07-2022 This application has been listed under the heading
‘For Orders’.

Registry has pointed out several defects in the
present application.

Mr. Radha Mohan Singh, learned counsel for the
petitioners submitted that the defects are mainly because only e-
filing of applications are permitted by the Court. He submitted
that defects can be removed only if filing of hard copy is
permitted. He undertook that even if the applications are heard
and disposed of on merit in due course of time when the Court



would permit filing of hard copy, the defects pointed out by the registry would be removed.

In view of the above submissions made by the learned counsel for the petitioners, with consent of the parties, the application has been taken up for hearing on merit.

In the present application preferred under Section 438 of the Code of Criminal Procedure, the petitioners seek pre-arrest bail in connection with Paharkatta P.S. Case No.41 of 2021 registered for the offences punishable *inter alia* under Sections 379, 354 and 307 of the Indian Penal Code.

According to the prosecution case, on 30.04.2021 at about 8 a.m. while the informant Md. Sakir Alam was cutting the soil for construction of a government road from the land which was in his peaceful possession, the petitioners came and protested against cutting of soil and after exhortion made by Naushad Alam, they started abusing and assaulting the informant. It is further alleged that Naushad Alam armed with a dangerous weapon assaulted on the head of the informant causing grievous injury. Thereafter, Naiyar Alam and Shafqat Alam snatched Rs. 4200/- from his pocket. When the informant raised *hulla*, the nearby people came and pacified the matter. It has further been alleged that when the family members of the



informant came, the accused persons misbehaved with the wife of the informant.

Mr. Radha Mohan Singh, learned counsel for the petitioners submitted that during investigation, the Investigating Officer recorded the statements of several witnesses. They have stated that the construction of road was going on and the contractor was cutting soil from JCB. The land of the informant was on the eastern side of the road whereas the land of the petitioner no.1 was situated on the western side of the road. However, due to the cutting of the soil, an altercation took place and both the parties assaulted each other for which case and counter case were registered. The counter case relating to the same occurrence was numbered as Paharkatta P.S. Case No.42 of 2021 instituted by petitioner no.1 Naushad Alam. In the said counter case instituted *inter alia* under Sections 307, 325 and 379 of the Indian Penal Code, the informant and his family members have been made accused.

On the other hand, Md. Aslam Ansari, learned Additional Public Prosecutor for the State opposed the prayer for grant of pre-arrest bail. He contended that there is specific allegation against petitioner no.1 that he assaulted on the head of the informant causing grievous injury.



Considering the allegations made in the case and counter case and the background in which the offence took place, the petitioners are directed to be released on bail in the event of their arrest or surrender in the court below on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-3rd, Kishanganj in connection with Paharkatta P.S. Case No.41 of 2021 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J.)

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