

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67436 of 2021

Arising Out of PS. Case No.-289 Year-2021 Thana- BIHIA District- Bhojpur

1. Md. Kalim Son of Late Imul Haque R/O Village- Bagha, P.S.- Bihia, Dist.- Bhojpur
2. Md. Saddam Son of Md. Salim R/O Village- Bagha, P.S.- Bihia, Dist.- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Sr. Advocate

For the Opposite Party/s : Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 04-07-2022 Heard learned senior counsel appearing on behalf of the petitioners and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioners seek bail in connection with Bihia P.S. Case No. 289 of 2021 registered for the offence under Sections 147, 149, 341, 323, 324, 379, 307, 336, 447 and 504 of Indian Penal Code and later on Section 302 of Indian Penal Code has been added.

The accused/petitioners are named in the F.I.R. and are in custody since 31.08.2021.



The allegation against the petitioners is to commit murder of husband of the informant equipped with deadly weapons like sword, iron rod etc., alongwith other co-accused persons, due to previous enmities.

Learned senior counsel appearing on behalf of the petitioners submitted that the occurrence is founded over neighbourhood enmities, and, is the foundation of the present occurrence, which is nothing but a free fight, where both the parties received injury. It has been submitted that there is counter case on the part of the petitioners. It has been submitted that if the version of informant, of his claiming to be the eye witness of the occurrence, be believed, then certainly the injury, alleged to be caused by petitioner no.1 by sword, is to be caused by sharp edged weapon, but the post mortem report is suggesting that same has been caused by hard and blunt substance, indicating otherwise. It has also been submitted that the assault, as alleged to be caused by petitioner no.2, is not repeated and also of simple in nature, which negate the intention to cause death. While concluding the argument, it has been submitted that chargesheet has already been submitted in this case, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State while



opposing the prayer for bail fairly conceded that, as per F.I.R., previous enmities is appearing between the parties.

Considering the facts and circumstances as mentioned above, as nature of injury, as alleged, is not in corroboration with weapon, alleged to cause such injury, as per post mortem report and further the nature of injury caused by the assault of petitioner no.2, which is simple coupled with the fact that chargesheet has already been submitted in this case, let the petitioners, above named, are directed to be released on bail in connection with Bihia P.S. Case No. 289 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Bhojpur at Ara, subject to the following conditions:

“(i) That accused/petitioners shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioners.

(ii) Accused/Petitioners shall cooperate in the trial and shall be physically



present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioners, duly supported by the documents.

(iii) That one of the bailors shall be Nousheen Shaukat, who is the wife of petitioner no.1 and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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