

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69220 of 2021**

Arising Out of PS. Case No.-376 Year-2021 Thana- JOKIHAT District- Araria

1. Saddam S/o Md. Quddus
 2. Md. Shahanawaz S/o Md. Kasim
 3. Jawwad S/o Md. Kasim
 4. Reaish S/o Faruk
- All are R/o village- Masuriya, P.S.- Mahalgoan, District- Araria

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Kundan Kumar Singh, Advocate
For the Opposite Party/s : Mr. Kumar Ranjit Ranjan, APP

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

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

Registry has pointed out several defects in the
present application.

Mr. Kundan Kumar 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.

The petitioners seek pre-arrest bail in connection with Jokihat (Mahalgaon) P.S. Case No.376 of 2021 registered for the offences punishable under Sections 341, 323, 324, 307, 447, 448, 379 and 504 read with 34 of the Indian Penal Code.

According to the prosecution case, Md. Quddus had borrowed Rs.15000/- from the informant about one month ago and had undertook to return the same within one month. When the informant demanded back the borrowed amount, Md. Quddus avoided to pay back and his son, namely, Saddam even denied to have borrowed any amount from the informant. This led to exchange of hot words between the parties whereafter Md. Quddus brought *farsa* and attacked on him but his wife caught his hand and pulled him as a result of which, *farsa* hit her on her head. The petitioner no.2 Md. Shahnawaz and petitioner no.4 Reaish assaulted his wife by foot and fist and Jawwad and Ashraf pulled the informant after putting a rope around his neck and in the meantime, other accused persons, namely, Rasool, Warish, Kasim, Bibi Panno entered into the house and took away Rs.45000/- from the box and Warish took



away cloths and silver ornaments.

Learned counsel for the petitioner submitted that the injury reports of the informant and his wife would clearly show that the allegations made in the first information report are exaggerated. The informant and his wife had sustained simple injuries. The doctor, who examined the informant categorically stated that there was swelling and pain on left side of chest caused by hard and blunt substance and there was a simple sharp cut injury on the head of the wife of the informant. He contended that so far as the injury on the head of the wife of the informant is concerned, the same is attributed to the accused Md. Quddus. He further contended that there is no truth behind the allegation that the accused Md. Quddus had borrowed any amount from the informant. The fact is that both the members of the prosecution party and the accused side are related to each other. The members of the prosecution party wanted forceful possession of land which is in peaceful possession of accused Md. Quddus. It was because of the land dispute between the parties, there was some hot exchange of words in which the informant and his wife had sustained simple injuries. The ingredients of Section 307 of the Indian Penal Code is wanting, as there is no allegation of repetition of blow by any deadly



weapon on any person. The allegation of house trespass and removal of any property from the house of the informant is nothing but a super-addition in order to make the case grievous. He also contended that owing to the land dispute Panno wife of Quddus had lodged and FIR being Jokihat (Mahlgaon) P.S. Case No.435 of 2021 on 03.09.2021.

On the other hand, learned counsel for the State has opposed the application for grant of pre-arrest bail to the petitioners. He contended that from the allegations made in the FIR ingredients of the offence punishable under Section 307 of the Indian Penal Code is clearly made out.

Considering the materials available on record, the submissions advanced on behalf of the parties and the fact that the petitioners are not the persons who are said to have assaulted the informant or his wife with any deadly weapon and there is a previous litigation between the parties too, they 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 Chief Judicial Magistrate, Araria in connection with Jokihat (Mahlgaon) P.S. Case No.376 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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