

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4369 of 2023

Arising Out of PS. Case No.-141 Year-2022 Thana- POTHYA District- Kishanganj

1. Imtiyaz @ Md. Imtiyaz Ali S/O Late Shorab Ali R/O Village- Boxa, P.S.- Pothia, Distt- Kishanganj (Bihar).
2. Afzal S/O Late Ekramul Hag R/O Village- Boxa, P.S.- Pothia, Distt- Kishanganj (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dineshwar Tiwary, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 22-05-2023 Heard learned counsel appearing on behalf of the petitioners and learned Additional Public Prosecutor appearing on behalf of the State.

At the outset, learned counsel for the petitioners submitted that inadvertently, missed to mention criminal antecedent of petitioner no.2 as he found involved in one more criminal case which is Pothia P.S. Case No.154 of 2007. Accordingly, learned counsel for the petitioners is permitted to make necessary correction, during the course of the day itself.

The accused/petitioners are named in the F.I.R. and apprehended their arrest in connection with Pothia P.S. Case No.141 of 2022 registered for the offences punishable under



Sections 341, 323, 308, 504, 506 and 354/34 of the Indian Penal Code.

The allegation against the petitioners is to cause bodily injuries to informant and others alongwith other co-accused persons, which may likely to cause their death, where occurrence arises out of land disputes.

Learned counsel appearing on behalf of the petitioners submitted that occurrence is of free fight in nature, where both parties received injuries and for the same set of occurrence counter case was also lodged from petitioners's side which was registered as Pothia P.S. Case No.139 of 2022. It is pointed out that the case of petitioner was lodged prior to the present case and just to counter the case lodged by this petitioner the present case was lodged. It is submitted that as allegation available through F.I.R. against petitioner no.1 that he was equipped with spear (*bhala*) without attributing any specific overt act as regard to cause any assault to informant and others during the course of occurrence, whereas the maximum allegation as surfaced against petitioner no.2 is only to give order to disrobe informant and others during the course of occurrence.

Learned APP appearing on behalf of the State, opposes the prayer for bail.



In view of the facts and circumstances as mentioned above and by taking note of the fact that occurrence is of free fight in nature, accordingly the petitioners above named, in the event of their arrest or surrender before the learned Court below within a period of four weeks, are directed to be released on bail, furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, Kishanganj/concerned Court below where the case is pending in connection with Pothia P.S. Case No.141 of 2022 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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