

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13854 of 2023

Arising Out of PS. Case No.-468 Year-2021 Thana- SAHARSA SADAR District- Saharsa

1. Md. Kuddus, Son Of Late Md. Hafizul @ Late Hafizul, R/O Saharsa Basti, Ward No.38, P.S.- Saharsa Sadar, District- Saharsa
2. Md. Salman, Son Of Md. Moim, R/O Saharsa Basti, Ward No.38, P.S.- Saharsa Sadar, District- Saharsa
3. Md. Saddam, Son Of Md. Moim, R/O Saharsa Basti, Ward No.38, P.S.- Saharsa Sadar, District- Saharsa
4. Md. Mansoor Rain @ Md. Mansoor, Son Of Late Md. Ganimat, R/O Saharsa Basti, Ward No.38, P.S.- Saharsa Sadar, District- Saharsa
5. Md. Jumrati, Son Of Md. Khaleel, R/O Saharsa Basti, Ward No.38, P.S.- Saharsa Sadar, District- Saharsa
6. Md. Rojit, Son Of Late Md. Ganimat Rain, R/O Saharsa Basti, Ward No.38, P.S.- Saharsa Sadar, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Opposite Party/s : Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 23-05-2023 Heard learned counsel for the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Saharsa Sadar P.S. Case No. 468 of 2021 registered for the offence punishable under Sections 147, 148, 149, 341, 323, 307, 379, 336, 384, 504, 506, and 447 of the Indian Penal Code.

Petitioners and other co-accused person allegedly



were erecting boundary on some land. On objection being raised by the prosecution parties, there is indiscriminate assault by the petitioners.

Learned counsel for the petitioners submits that the prosecution case manifests subsistence of a dispute over right and possession regarding a land. The same forms the basis of a free fight between the parties leading to lodging of two cases, one from each side. The FIR lodged from the instant accused side is bearing Saharsa P.S. Case No. 471 of 2021 and it is of the same date as the instant case in which the petitioners are accused persons. Petitioners are having no antecedents. Other co-accused persons have been allowed anticipatory bail in Cr. Misc No. 12469 of 2023. The nature of the injury, as is apparent from the order of rejection dated 6.10.2021 by the Additional Sessions Judge-II, Saharsa, is simple in nature.

Learned APP for the State has opposed the prayer for pre-arrest bail. It is submitted that assault is attributed against all accused persons by name, including the petitioner.

Considering the rival submissions, manner of alleged occurrence, the fact that there is case and counter case with respect to the free fight arising out of land dispute, and petitioners' claim based on parity with co-accused, this Court is



inclined to allow petitioners' prayer for grant of anticipatory bail.

Accordingly, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No. 468 of 2021, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor will also undertake to inform the court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.

This Court would expect that the petitioners' counsel would honour his undertaking in the instant proceedings



regarding supply of the requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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