

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18061 of 2023

Arising Out of PS. Case No.-172 Year-2022 Thana- MAHESI District- East Champaran

1. MD NEYAZ @ NEYAZ AHMAD SON OF MD AINUL @ LATE AINUL HODA @ AINUL RESIDENT OF VILLAGE - CHAK ABDUL GANI, (PURANI MEHSI), P.S. - MEHSI, DISTT. - EAST CHAMPARAN.
2. MD. ASIF SON OF MD. NEYAZ RESIDENT OF VILLAGE - CHAK ABDUL GANI, (PURANI MEHSI), P.S. - MEHSI, DISTT. - EAST CHAMPARAN.
3. MD. HAMID SON OF MD. AZAD @ AZAD AHMAD RESIDENT OF VILLAGE - CHAK ABDUL GANI, (PURANI MEHSI), P.S. - MEHSI, DISTT. - EAST CHAMPARAN.
4. FARZANA KHATOON WIFE OF MD. NEYAZ RESIDENT OF VILLAGE - CHAK ABDUL GANI, (PURANI MEHSI), P.S. - MEHSI, DISTT. - EAST CHAMPARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate
For the Opposite Party/s : Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 25-05-2023 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioners apprehend their arrest in connection with Mehsi P.S. Case No. 172 of 2022 for the offence registered under sections 341, 323, 324, 354B, 427, 379, 307 and 34 of the Indian Penal Code lodged on 11.06.2022 by the informant, Md. Islam.

The prosecution's case in brief is that on 10.06.2022 at 9:00 A.M. informant demolished his old thatched house and



kept remains on his own land. Md. Neyaz, Md. Azad, Md. Asif, Md. Hamid, Md. Sajid, Tabrez Samas, Rani Khatoon, Farzana Khatoon, Masuma Khatoon suddenly came and abused the informant. When he opposed Md. Neyaz and Md. Azad assaulted him with '*daab*' and '*sword*' on his head due to which he sustained cut injury on his head.

When his wife came to his rescue, Tabrez Samas instigated to kill both of them and assaulted him and his wife with 'rod' on his hand and leg due to which he as also his wife sustained injury. They also snatched gold chain worth Rs. 45,000/- from his wife's neck and damaged sewing machine. Further they took away briefcase in which articles worth Rs. 50,000/- were kept. Villagers admitted them in Mehasi Health Centre. Accordingly, the FIR.

It has been submitted by the learned Counsel for the petitioners that there is a case and counter case in the matter, although the allegation against petitioner no. 1 is of inflicting injury on the head of the Md. Islam, the injury report which is Annexure-3 to the petition shows that the same is simple in nature.

Further the submission is that without accepting the allegation and/or the outcome of the present petition in view of



the fact that the informant side has alleged injuries, the petitioner (s) on its own would like to contribute towards the medical assistance of Rs. 15,000/- through Demand Draft issued by the local State Bank of India branch to be submitted before the 'NAZARAT' of concerned Court to be handed over to the injured after checking the credentials.

Learned APP for the State, on the other hand, opposes the prayer for anticipatory bail stating that the injury inflicted by the petitioner no. 1 is on the head.

Considering the aforesaid submission put forward by the learned Counsel for the petitioners as also the fact that the injury has been found to be simple in nature, this Court is inclined to extend them privilege of anticipatory bail subject to payment of Rs. 15,000/-, as stated above.

Let the petitioners in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., East Champaran at Motihari in connection with Mehsi P.S. Case No. 172 of 2022 subject to condition as laid down under Section 438(2) of the Cr.P.C.



(i) one of the bailor should be the family member of the petitioners, who shall provide official document to show their *bona fide*;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial court itself;

(iii) the petitioners shall appear before the concerned police station every month for next one year to mark attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

(v) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the anticipatory bail application stands allowed.

(Rajiv Roy, J)

Jagdish/Neha/-

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