

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22650 of 2022

Arising Out of PS. Case No.-538 Year-2021 Thana- KRITYANAND NAGAR District-
Purnia

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MD. MOJEBUR RAHMAN @ MAJIBUR RAHMAN @ MOHAMMAD
MOJIBUR RAHMAN Son of Late Shahjahan Resident of Village - Bansar,
Ward no.2, P.S.- Srinagar, Distt.- Punrea.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 23619 of 2022

Arising Out of PS. Case No.-538 Year-2021 Thana- KRITYANAND NAGAR District-
Purnia

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BIBI SHAYARA KHATOON Wife of Md. Mojebur Rahman Resident of
Village - Bansar ward No. 2, P.S. - Sri Nagar, District - Purnea.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 22650 of 2022)

For the Petitioner/s : Mr.Raj Kumar

For the Opposite Party/s : Mr.Bhanu Pratap Singh

(In CRIMINAL MISCELLANEOUS No. 23619 of 2022)

For the Petitioner/s : Mr.Ram Prawesh Kumar

For the Opposite Party/s : Mr.Uday Chand Prasad

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 16-01-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek bail in connection with K. Nagar
(Srinagar) P.S. Case No. 538/2021 registered for the offences
punishable under Sections 147, 148, 149, 447, 323, 325, 307,



427, 379, 504 and 302 of the Indian Penal Code.

As per prosecution case, allegation against the petitioners and others to have forcibly uprooted the brinjal tree. Petitioners and others have abused and assaulted the informant and others.

Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case due to land dispute. The petitioners are languishing in custody since 05.01.2022 and bear no criminal antecedent. He further submits that from perusal of the FIR, it appears that allegations levelled against the petitioners are general and omnibus in nature and there is no specific overt-act attributed against the petitioners. The petitioners are only member of mob. Learned counsel for the petitioners further submits that according to prosecution case, there is only allegation of snatching jewellery of women against the petitioner Md. Mojebur Rahman @ Majibur Rahman, which is nothing but super addition. He further submits that during treatment Jarina Khatoon died thereafter, Section 302 of the I.P.C. has been added in this case. From perusal of the FIR, some of the persons have sustained injuries but no injury report of any injured person is available on the record till submission of charge-sheet



dated 11.03.2022. He further submits that occurrence took place on 08.12.2021 and FIR lodged on 17.12.2021. During investigation, after nine days of the occurrence one of the witnesses has stated that petitioners and others have assaulted the deceased and the same fact is nothing but afterthought. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, period of custody, there is no specific overt-act against the petitioners, petitioners are only member of mob, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and keeping in view clean antecedent of petitioners, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioners above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Purnea in connection with K. Nagar (Srinagar) P.S. Case No. 538/2021, subject to following conditions:-



(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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