

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25578 of 2022

Arising Out of PS. Case No.-233 Year-2021 Thana- MAHISHI District- Saharsa

1. Rabina Khatoon aged about 58 years, female, W/o Md. Ful Hasan Resident of Village- Karhara, P.S.- Mahishi, District- Saharsa
2. Md. Jahir @ Jahid, aged about 24 years, male, S/o Md. Sagir Resident of Village- Karhara, P.S.- Mahishi, District- Saharsa.
3. Md. Saddam @ Samse, aged about 26 years, male S/o Ful Hasan Resident of Village- Karhara, P.S.- Mahishi, District- Saharsa

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 33342 of 2022

Arising Out of PS. Case No.-233 Year-2021 Thana- MAHISHI District- Saharsa

Abu Bakar @ Akram, aged about 45 years, male, Son of Late Safi Ahmad Resident of Village - Karhara, P.S.- Mahishi, Distt.- Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 25578 of 2022)

For the Petitioner : Mr. Ashok Kumar Mishra, Adv.

For the State : Mr. Sanjay Kumar Tiwary, APP

(In CRIMINAL MISCELLANEOUS No. 33342 of 2022)

For the Petitioner : Mr. Ashok Kumar Mishra, Adv.

For the State : Mr. Bharat Lal, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 02-01-2023 Heard learned counsel for the petitioners and learned Additional Public Prosecutors appearing for the State of Bihar.

These two bail applications arise out of the same Police Station i.e., *Mahisi PS Case No. 233 of 2021*, and as such, they are



being disposed of by this common order.

The petitioners seek bail in connection with Mahisi PS Case No. 233 of 2021 registered for the offence punishable under Sections 147, 148, 149, 341, 323, 324, 307, 447, 379, 504 and 506 of the Indian Penal Code and Sections 25(1-b)a, 26, 27 and 35 of the Arms Act.

Arising out of a dispute over 2 *kathas* 7 *dhurs* of ancestral land, it is alleged that the accused persons, total 11 in numbers, have come variously armed and assaulted the informant and her family members. Specific firearm assault is alleged against co-accused, namely, Md. Ful Hasan and assault by brick on the informant is alleged against co-accused, namely, Md. Kayum.

Learned counsel for the petitioners submits that the petitioners are having clean antecedents. The First Information Report (*for brevity* 'FIR') itself shows that the motive for the prosecution is a land dispute between the parties, who are related to each other. There is no specific assault alleged against the instant petitioners. The firearm assault is alleged against co-accused, namely, Md. Ful Hasan and informant has been assaulted on the head by a brick by co-accused, namely, Md. Kayum who are not petitioners in the instant petitions. The allegation against other accused persons has been made general and omnibus only with a view to implicate all the family members. The charge sheet has been submitted and the petitioners of Cr. Misc. No. 25578 of 2022 are in custody since 06-12-2021, whereas petitioner of Cr. Misc. No. 33342 of 2022 is in custody since 13-01-2022. One of the similarly situated co-accused, namely, Md. Jafar, has been allowed anticipatory bail by a co-ordinate Bench of this Court by order dated 28-11-2022, passed in



Cr. Misc. No. 34949 of 2022.

Learned APP for the State has opposed the prayer for bail. It is submitted that the prosecution party has sustained injury and the petitioners are named accused persons.

Considering the rival submissions, the petitioners' claim based on parity and the nature of assault alleged against the petitioners and antecedents, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioners' counsel. Prayer for bail of the petitioners of both the bail petition is allowed.

Let the petitioners of both bail petitions, above named, 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 ACJM- II, Saharsa, in connection with Mahishi PS Case No. 233 of 2021, 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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