

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28873 of 2022**

Arising Out of PS. Case No.-228 Year-2021 Thana- MAJHAULIA District- West Champaran

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ASHARAF MIAYA @ ASHARAF ALAM SON OF RAJA HUSSAIN R/O
VILLAGE -DUDHA TOLA, WARD NO.-12, P.S.- MAJHAULIA,
DISTRICT- WEST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Akhileshwar Kumar Shrivastva, Advocate
	:	Mr. Amrit Kirti, Advocate
For the Opposite Party/s	:	Mr.Binod Kumar No.3, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 05-04-2023 Heard learned counsel appearing for the petitioner and
the learned A.P.P. for the State.

The petitioner seeks bail in connection with
Majhauria P.S. Case No. 228 of 2021(G.R.No.1664 of 2021),
registered for the offence under Sections 302, 120(B)/34 of the
Indian Penal Code.

As per the prosecution case, it is alleged that while the
informant was repairing his thatched house, in the meantime, all
the accused persons variously armed obstructed to do the
repairing work and when it was protested by the uncle of the
informant, co-accused Raja Hussain and this petitioner assaulted
him by means of Lathi and Iron rod.

Learned counsel appearing for the petitioner submits



that the petitioner has clean antecedent. He has falsely been implicated in the present case due to land dispute. Further submits that the present occurrence took place due to sudden provocation between the parties. Further submits that the allegation as alleged in the FIR does not support the postmortem report. Further submits that the co-accused, namely, Ali Hussain Mian @ Ali Husen Mian and others have been granted bail vide order dated 03.08.2022 passed in Cr. Misc. No.23911 of 2022 and co-accused, namely, Kadam Rasul Mian has also been granted bail vide order dated 15.02.2022 passed in Cr. Misc. No.51105 of 2021 by different Coordinate Benches of this Hon'ble Court and the police, after investigation, submitted chargesheet against the petitioner and the petitioner is in custody since 26.02.2022.

Learned APP for the State has opposed the prayer for bail of the petitioner.

Considering the aforesaid fact, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, West Champaran, Bettiah in connection with Majhaulia P.S. Case No. 228 of 2021(G.R.No.1664 of 2021), with the



following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

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

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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