

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32703 of 2022**

Arising Out of PS. Case No.-382 Year-2019 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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1. MD. AYAJ @ HITLAR @ MD. AYAZ @ AIYAJ @ MD. AZAD Son of Late Md. Jainul Avedin @ Late Jainul Aabedin Resident of Village - Laruara, P.S. Muffasil, Distt.- Begusarai.
 2. Md. Sarfraz @ Md. Sarfraz @ Md. Sarfroz @ Ghulam Sarwar Son of Late Md. Jainul Avedin Resident of Village - Laruara, P.S. Muffasil, Distt.- Begusarai.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Adv.
For the Opposite Party/s : Ms. Anita Kumari SinghA.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

4 02-03-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Petitioners seek bail in a case registered for the offences punishable under Sections 341, 323, 324, 307, 504 and 34 of the Indian Penal Code but the police after investigation submitted charge sheet under Sections 341, 323, 324, 307, 302, 504 and 34 of the Indian Penal Code.

According to prosecution case, the allegation against



the petitioner no.1 is that he assaulted the son of the informant by means of sword, causing head injury and the allegation against the petitioner no.2 is that he assaulted the husband of the informant namely Wahid by means of Dabiya. Thereafter the husband of the informant was brought to hospital, where he died during course of treatment.

Learned counsel for the petitioners submits that petitioners have clean antecedent and have committed no offence and they have falsely been implicated in the present case. He further submits that due to land dispute, the present occurrence took place. He further submits that there is no allegation of any assault or overt act against the petitioner no.1, namely, Md. Ayaj @ Hitler. He further submits that there is allegation against petitioner no.2 namely, Md. Sarfraz @ Md. Sarfraj @ Md. Sarfroz @ Ghulam Sarwar that he has assaulted to the husband of the informant by means of Dabiya. He further submits that in her re-statement, he has not stated anything about the petitioner no.2. He has stated that all are assaulted. There is no specific allegation of any assault against the petitioner no.2 in the re-statement of the informant and the co-accused persons namely, Dilsad @ Dilsaj @ Md. Dilsad Alam, Md. Aamir Hamja and Md. Aamir Hamsher have been granted



anticipatory bail vide order dated 24.06.2020, passed in Cr. Misc. No. 82946 of 2019 and other co-accused namely, Md. Anjum has been granted bail vide order dated 14.12.2020 passed in Cr. Misc. No. 27860 of 2020. The police after investigation submitted the charge sheet against the petitioners. The petitioners are in custody since 03.02.2022.

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioners.

Considering the aforesaid facts and circumstances, let the petitioners, 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 Court below, where the case is pending, in connection with Muffasil P.S. Case No. 382 of 2019, subject to the following conditions:-

1. Petitioners 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 their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

2. 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.

3. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the



petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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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