

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37372 of 2023

Arising Out of PS. Case No.-62 Year-2023 Thana- GOPALGANJ TOWN District- Gopalganj

1. ARIF MIAN SON OF AHMAD ALI RESIDENT OF VILLAGE -
BASDILA BAZAR, P.S. - GOPALGANJ, DISTRICT - GOPALGANJ
2. AHMAD ALI SON OF LATE YASIN MIYAN RESIDENT OF VILLAGE -
BASDILA BAZAR, P.S. - GOPALGANJ, DISTRICT - GOPALGANJ

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR,

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5, Advocate
For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 08-09-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners are in judicial custody in connection with Gopalganj Town P.S. Case No. 62 of 2023 registered under Sections 147, 148, 149, 323, 324, 307, 302, 109 and 120B of the Indian Penal Code lodged on 28.01.2023 by the informant, Mojan Jee Prasad.

3. The allegation is that accused persons armed variously assaulted Ankit Kumar, son of the informant which resulted into severe injury and ultimately proved fatal. Further allegation is against five accused persons of assaulting Hariom Kumar, Chandan Kumar and Shivam Kumar. The petitioners are



in the second set of accused persons. The injured were taken to the hospital where Ankit Kumar was brought dead. Accordingly, the FIR.

4. It is the case of the petitioner that main role of attacking the deceased, Ankit Kumar is on named 14 accused persons, they have been alleged to have assaulted Hariom Kumar, Chandan Kumar as also Shivam Kumar. The injury report of the said three have been reserved and no opinion has been given. Further, it is the case of the petitioners that while petitioner no. 1, Arif Mian was found outside his home and not at the place of incident, the petitioner no. 2, Ahmad Ali was on a motorcycle moving in the Gopalganj city. These facts have come in the C.C. Tv. Footage.

5. In this case, case diary was called for which has since been received and Mr. Bharat Bhushan learned APP has taken this Court to paragraph-207 of the case diary in which it has been incorporated that Ahmad Ali at the time of occurrence was away from the place of occurrence and further even Md. Arif was not there when the occurrence took place as per the C.C. Tv. Footage.

6. Shubhan Ahmad who is also similar placed accused said to have assaulted the three persons along with these



petitioners have since been extended the relief by a co-ordinate Bench of this Court in Cr. Misc. No. 44275 of 2023 vide order dated 25.07.2023.

7. Let the same be kept on record.

8. Taking into account the submission put forward by the learned counsel for the parties, admittedly, the role of assault on Ankit Kumar (deceased) is on other accused persons, they are alleged to have assaulted Hariom Kumar, Chandan Kumar and Shivam Kumar, as per the case diary, the police during investigation has found the two petitioners to be away from the place of occurrence, similar placed co-accused Subhan Ahmad, as stated above, has been granted bail and they are in custody since 07.02.2023 (as stated in paragraph-25 of the petition) and do not have criminal antecedent, this Court is inclined to grant him privilege of bail.

9. Let the petitioners be released on 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 Chief Judicial Magistrate, Gopalganj in connection with Gopalganj Town P.S. Case No. 62 of 2023, subject to the following conditions:

(i) one of the bailor should be the family member of



the petitioners who shall provide official document to show his/her *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 fortnight for next six months 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.

(Rajiv Roy, J)

Jagdish/Jyoti/-

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