

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59409 of 2022

Arising Out of PS. Case No.-21 Year-2022 Thana- BUDHUCHAK District- Bhagalpur

1. MD ABUTALIM S/o Late Jalaluddin R/V- Kisanpur 2 Kishandaspur, P.S.- Budhuchak, Distt- Bhagalpur.
2. MD. INTEJAR S/o Md. Arif R/V- Kisanpur 2 Kishandaspur, P.S.- Budhuchak, Distt- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha, Advocate
For the Opposite Party/s : Mr.Nawal Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 03-02-2023 Heard the learned counsel for the petitioners and the learned A.P.P. for the State.

The petitioners seek regular bail in connection with Budhuchak P.S. Case No. 21 of 2022, registered for the offences punishable under Sections 147, 149, 341, 323, 325, 307, 448, 379, 504 and 506 of the Indian Penal Code.

The case of the prosecution, in brief, according to the informant, is that on 02.05.2022, at about 5:00 P.M. in the evening while the informant was sitting in his house, the accused persons had arrived at his house, armed with lathi (stick), danda, dabia and iron rod, whereafter they



started abusing him and when the informant had objected to the same, the accused persons, had assaulted the informant, however, in the meantime, the son of the informant had arrived there to save his father but he was also assaulted by the co-accused person, namely, Md. Aarif by iron rod resulting in him receiving serious injuries on his head. Thereafter, the other co-accused persons, including the petitioners herein had also entered the house of the informant and assaulted the persons, who were present in the house.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case, are having a clean antecedent and they are languishing in custody since 03.05.2022. The learned counsel for the petitioners has further submitted that the present case arises out of case and counter case, the case filed by the co-accused person, namely, Sheikh Ikram being first in time inasmuch as the same bears Budhuchak P.S. Case No. 20 of 2022, whereas the present F.I.R has been



registered as Budhuchak P.S. Case No. 21 of 2022 and in the said incident the son of the co-accused person has been killed. It is also submitted that the informant of the present case, namely, Md. Samshad was treated at J.L.N.M.C.H. at Bhagalpur and after proper treatment he was handed over to the police in connection with the counter case filed by the co-accused person, as aforesaid, and while he was in police custody his health deteriorated on account of him not getting proper treatment and he died only after lapse of 22 days on 26.05.2022 at P.M.C.H., Patna. It is also submitted that a general and omnibus allegation has been levelled against all the accused persons of having assaulted the informant and as far as the petitioners are concerned, they are not alleged to have engaged in any sort of specific overt act qua the informant of the present case, hence they are not having any complicity in the matter. Lastly, it is submitted that similarly situated co-accused persons, namely, Ali Hassan has already been granted the privilege of bail by a Co-ordinate



Bench of this Court vide order dated 16.12.2022, passed in Criminal Miscellaneous No. 55888 of 2022.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioners and taking into account the materials available on record as also considering the fact that a general and omnibus allegation has been levelled qua the petitioners herein and further taking into account the fact that the present case arises out of case and counter case in which the son of the co-accused person i.e. Sheikh Ikram, namely, Md. Shahwaz has been killed, apart from the fact that similarly situated co-accused person has already been granted the privilege of bail by a co-ordinate Bench of this Court, I deem it fit and proper to admit the petitioners to the privilege of bail.

Accordingly, the petitioners, above named,



are directed to 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 learned A.C.J.M-XV, Bhagalpur in connection with Budhuchak P.S. Case No. 21 of 2022.

(Mohit Kumar Shah, J)

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