

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65999 of 2023

Arising Out of PS. Case No.-367 Year-2023 Thana- SURSAND District- Sitamarhi

1. Md. Phool @ Jafar, Son Of Md. Irfan Resident Of Village Parsa, Ward No 8, P.S. Sursand, Distt. - Sitamarhi
2. Irfan @ Md. Irfan, Son Of Late Wakil Resident Of Village Parsa, Ward No 8, P.S. Sursand, Distt. - Sitamarhi

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Majid Mahboob Khan, Adv.
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Ashhar Mustafa, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 20-12-2023 Heard learned counsel for the petitioner's, learned A.P.P. for the State and learned counsel for the informant.

2. The petitioners seek regular bail in connection with Sursand P.S. Case No. 367 of 2023, lodged on 10.07.2023 under Sections 323, 324, 307, 379, 452, 354, 427, 504, 506, 34 of the Indian Penal Code.

3. As per the prosecution case, the FIR has been lodged against 6 named accused persons including the present petitioner's. The allegation against the petitioner's is that they have attack by sword on the head of the informant and his brother.

4. Learned counsel for the petitioner's submits that



the petitioner's are innocent and have committed no offence. Counsel also submits that both the petitioner's and informant side are agnant and due to pity dispute, the occurrence took place and resulted into injury. Counsel further submits that for the same date and place of occurrence, there were two criminal cases filed viz, one criminal case has been filed from the informants' side in connection with Sursand P.S. Case No. 367 of 2023 in which the petitioner's are seeking bail whereas, another criminal case has been filed from the petitioner's side in connection with Sursand P.S. Case No. 368 of 2023. Counsel further submits that allegation in the FIR against the petitioner's is of causing injury to two persons, but in the injury report, there is only one person who has been injured.

5. Learned counsel for the petitioner's submits that vide order dated 18.10.2023, case diary as well as injury reports has been called for and in the injury report, only one wound which is lacerated in nature has been observed. Counsel also submits that though the injury is grievous in nature, the lacerated wound may not be caused by the sword. Counsel further submits that antecedent of the petitioner's are clean and they are in custody since 16.07.2023.

6. Learned APP for the State opposes the prayer for



bail of the petitioner's.

7. Learned counsel for the informant vehemently opposes the prayer for bail of the petitioner's and submits that with a view to develop their case, the petitioner's side had filed one more case i.e. Sursand P.S. Case No. 376 of 2023 dated 13.07.2023 which has been resulted into submission of final form. Counsel further submits that the petitioner's side are litigant and bail application of the petitioner's may be rejected.

8. Upon the specific query of the Court from the counsel for petitioner's that whether charge has been framed in this case or not, counsel submits that as per his knowledge, charge has not been framed in this case.

9. In the present facts and circumstances of this case and the submissions made above, let the petitioner's above named, be granted bail **only after framing of charge** on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Pupari, Sitamarhi in connection with Sursand P.S. Case No. 367 of 2023, subject to the conditions as laid down U/s 437(3) Cr.P.C. as well as the following conditions:

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



the petitioner's who shall provide official document to show their *bona fide*;

(ii) the petitioner's 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 bonds by the Trial Court itself;

(iii) the petitioner's shall appear before the concerned police station every month for one year to mark attendance;

(iv) the petitioner's shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) the petitioner's 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.

(Dr. Anshuman, J.)

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