

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69697 of 2023

Arising Out of PS. Case No.-774 Year-2022 Thana- BODHGAYA District- Gaya

1. Jamaluddin @ Munna Mian @ Munnu Mian Son Of Abdul Rajak Resident Of Village - Mastipur, P.S. - Bodhgaya, District - Gaya
2. Md. Nasim Mian @ Nasimuddin @ Md. Nasimuddin Son Of Jahur Alam Resident Of Village - Mastipur, P.S. - Bodhgaya, District - Gaya
3. Md. Anis @ Md. Anishuddin Son Of Jahuruddin Resident Of Village - Mastipur, P.S. - Bodhgaya, District - Gaya
4. Fayyar Mian @ Fayyajal Mian @ Fayak Jamal Son Of Jamaluddin Resident Of Village - Mastipur, P.S. - Bodhgaya, District - Gaya
5. Mahatab Alam @ Mehtab Alam Son Of Md. Mojahr Resident Of Village - Mastipur, P.S. - Bodhgaya, District - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheikh Arkan Ahmad, Advocate
For the Opposite Party/s : Ms. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 09-11-2023 Heard Mr. Sheikh Arkan Ahmad, learned counsel appearing on behalf of the petitioners and the learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Bodhgaya P.S. Case No. 774 of 2022, registered for the offences punishable under Sections 448, 427 and 380/34 of the Indian Penal Code.

3. The allegation against the petitioners is that they have demolished the constructed boundary wall of the



informant's land and took away his construction material.

4. Learned counsel appearing on behalf of the petitioners submits that from the narrations made in the FIR, it is manifestly clear that only suspicion has been raised that the petitioners against whom there is a land dispute, they have demolished the constructed boundary wall and taken away the construction materials, but neither there is an eyewitness to the alleged occurrence nor any materials has been placed connecting the complicity of the petitioners in the present crime. Further submissions has been made that there is a *bona fide* land dispute between the parties and the present FIR is only instituted with a view to spite the petitioners in a false case, in order to wreck vengeance and pressurize. It is submitted that the petitioner nos. 1 and 2 have one antecedent and so far the other petitioners are concerned, they are having fair antecedent.

5. On the other hand, learned counsel for the State opposed the pre-arrest bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the nature of allegation and the fact that nothing has been recovered from the whereabouts of the petitioners, coupled with the *bona fide* land dispute, let the petitioners above named be released on bail, in the event of



their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Gaya in connection with Bodhgaya P.S. Case No. 774 of 2022, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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