

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70891 of 2023**

Arising Out of PS. Case No.-267 Year-2023 Thana- KHIJARSARAI District-
Gaya

- =====
1. SIVBACHAN SINGH SON OF RAMDEV SINGH RESIDENT OF VILLAGE-
DEMA FATEHPUR, GAYA P.S.- KHIJARSARAI ,DISTRICT -GAYA
 2. SIVKUMAR SINGH SON OF RAMDEV SINGH RESIDENT OF VILLAGE-
DEMA FATEHPUR, GAYA P.S.- KHIJARSARAI ,DISTRICT -GAYA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Diwakar Upadhyaya
For the Opposite Party/s : Mr.Meena Singh

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-11-2023 Heard Mr. Diwakar Upadhyaya, learned counsel for

the petitioners and Mrs. Meena Singh, learned A.P.P. for the

State as well as learned counsel appearing for the informant.

The petitioners apprehend their arrest in
connection with Khizerisarai P.S. Case No. 267 of 2023
registered for the offence under Sections 147, 148, 149, 341,
323, 325, 307, 427 and 506 of the Indian Penal Code.

The petitioners are alleged to have assaulted the
informant and his brother has been inflicted a rod blow on
his head by the co-accused causing him injury and thereafter
he has been hanged on the guava tree and subjected to



brutal assault made by the petitioners.

Learned counsel appearing for the petitioners submits that the petitioners, who are of clean antecedent, are innocent and have falsely been implicated in this case. He further submits that from perusal of the F.I.R, it appears that no specific allegation of assault or any overt act is attributed to the petitioners rather the specific allegation of assault to the brother of the informant by means of iron rod is attributed to the co-accused, Jitendra Singh and Mantu Kumar who allegedly gave iron rod blow to Robins Kumar causing him unconsciousness. He further submits that there is case and counter case between the parties. Moreover, co-accused, Kanchan Devi @ Kanchan Mala and Ruby Devi have already been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 01.11.2023 passed in Cr. Misc. No. 70392 of 2023.

Learned A.P.P. for the State as well as learned counsel for the informant vehemently opposed the prayer for bail of the petitioner and submits that the brother of the informant and his brothers have been brutally assaulted by the petitioners inflicting them deadly head injuries.

Considering the facts and circumstances of the case



and the fact that the petitioners are having no criminal antecedent, no specific allegation of assault attributed to the petitioners and there happens to be case and counter case between the parties, let the, above named, petitioner, in the event of his arrest or surrender before the court below within a period of four weeks, 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.-IV, Gaya in connection with Khizerisarai P.S. Case No. 267 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with 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 canceled 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.

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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