

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70293 of 2022

Arising Out of PS. Case No.-187 Year-2022 Thana- AMAUR District- Purnia

1. Md. Taseer @ Taseer S/O Late Suleman Resident of Village- Paharia, P.S.- Amour, District- Purnea.
2. Sazabool S/O Hafiz Resident of Village- Paharia, P.S.- Amour, District- Purnea.
3. Bibi Azmeri Begum @ Bibi Azmeri W/O Sazabool Resident of Village- Paharia, P.S.- Amour, District- Purnea.
4. Bibi Praween Begum W/O Mojib Resident of Village- Paharia, P.S.- Amour, District- Purnea.
5. Gulsari Begum @ Gulsari W/O Md. Taseer Resident of Village- Paharia, P.S.- Amour, District- Purnea.
6. Md. Ismaeel S/O Late Jainuddin Resident of Village- Aartaha, P.S.- Rauta, District- Purnea.
7. Md. Mofij @ Md. Maufij S/O Late Suleman Resident of Village- Paharia, P.S.- Amour, District- Purnea.
8. Md. Mohsin S/O Late Suleman Resident of Village- Paharia, P.S.- Amour, District- Purnea.
9. Md. Tojib S/O Late Habibur Rahman @ Habib Resident of Village- Paharia, P.S.- Amour, District- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kaushal Kishore, Advocate
For the Opposite Party/s : Ms. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 28-04-2023 Heard learned counsel appearing on behalf of the

petitioners and learned Additional Public Prosecutor appearing

on behalf of the State.

Let the defect(s), as pointed out by the office, be

removed within a period of four weeks from today.



The accused/petitioners are named in F.I.R. and apprehending their arrest in connection with Amour P.S. Case No. 187 of 2022, registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307 and 385 of the Indian Penal Code.

The allegation against above named petitioners is to assault informant and others by means of rod and sword causing head and bodily injuries, having intention to cause their death, where occurrence is founded over land dispute.

Learned counsel appearing on behalf of the petitioners submitted that occurrence is free fight in nature, where both parties received injuries and for the same set of occurrence a case, registered in connection with Amour P.S. Case No. 179 of 2022 was lodged by petitioners' sides. It is submitted that as occurrence is free fight in nature, it cannot be said that petitioners are under intention to cause death of informant and other injured persons. It is submitted that the main ingredients to attract case under Section 307 of the Indian Penal Code is intention to cause death and same is very difficult to gather in present facts and circumstances, as occurrence is free fight in nature. It is also submitted that mere on the basis of injuries, it cannot be said that the petitioners were under intention to cause



death. While concluding the argument it is submitted that petitioners are having clean antecedent.

Learned APP, while opposing the prayer of bail submitted that there is specific allegation against petitioner no. 6, Md. Ismaeel and petitioner no. 8, Md. Mohsin to assault Shamim Akhtar and Nasim Akhtar respectively, causing them grievous head injuries. It is submitted that the inflicted injuries appear to be on vital part of the body and same are grievous, sufficient to suggest that these two petitioners were under intention to cause death of injured during the course of occurrence.

Considering the aforesaid facts and circumstances as allegation to assault appearing specific against petitioner no. 6, Md. Ismaeel and petitioner no. 8, Md. Mohsin, causing grievous head injuries, accordingly, their prayer for anticipatory bail are rejected herewith.

However, in respect of above mentioned petitioners at Serial Nos. 1, 2, 3, 4, 5, 7 and 9, it appears that they are only the part of mob without having any attributed overt act accordingly, in the event of their arrest or surrender before the Court below, within a period of four weeks of the order, they are directed to be released on bail furnishing bail bond of Rs. 10,000/- (Rupees



Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Purnea/concerned Court, where the case is pending in connection with Amour P.S. Case No. 187 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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