

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68801 of 2022

Arising Out of PS. Case No.-250 Year-2020 Thana- PANDAUL District- Madhubani

1. Sabir Ansari Son of Kasim Ansari R/O Vill.- Bihnagar, P.S.- Pandaul, Distt.- Madhubani
2. Sagir Ansari @ Md. Sagir Son of Sabir Ansari R/O Vill.- Bihnagar, P.S.- Pandaul, Distt.- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ratanakar Jha, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 21-04-2023 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 apprehend their arrest in connection with Pandaul P.S. Case No. 250 of 2020 registered for the offences punishable under Sections 448, 341, 323, 308, 504 and 34 of the Indian Penal Code (in short 'I.P.C.').

The allegation against these petitioners is to assault informant and his family members alongwith other co-accused



persons/family members by means of *farsa* and other weapons, where specific allegation to cause assault by using *farsa* on the head of daughter of the informant, namely, Nasra Khatoon, is available against co-accused Jahangir Ansari.

Learned counsel appearing on behalf of the petitioners submitted that the occurrence is free fight in nature and, as such, it cannot be said that these petitioners were under intention to cause death. It is also submitted that for the same set of occurrence a case was also lodged against the informant which has been registered as, Pandaul P.S. Case No. 249 of 2020. It is submitted that the specific allegation, as regard to assault, is available against co-accused Jahangir Ansari and not against these petitioners. While concluding the argument it is submitted that investigation of this case is completed and police found this case true under Section 308 of the I.P.C., rather under Section 307 of the I.P.C., creating a doubt on the face of allegation as alleged through present F.I.R.

Learned APP for the State opposes the prayer of bail.

Considering the aforesaid facts and circumstances and by taking note of the fact as occurrence is free fight in nature where specific allegation to cause assault by using *farsa* is not available against these petitioners rather same is available



against co-accused Jahangir Ansari, let both above named petitioners, in the event of their arrest or surrender within a period of four weeks, are directed to be released on anticipatory bail on 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, Madhubani/concerned Court, where the case is pending in connection with Pandaul P.S. Case No. 250 of 2020, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:-

“(i) 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 cancelled by the Court below.

(ii) 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.

(iii) 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.”

(Chandra Shekhar Jha, J)

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