

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73771 of 2022

Arising Out of PS. Case No.-615 Year-2022 Thana- DHAKA District- East Champaran

1. MOBARAK HUSSAIN Son of Late Refakat Hussain Resident of village - Chainpur Dhaka, P.S.- Dhaka, District - East Champaran at Motihari.
2. Jakir Hussain @ Zakir Hussain Son of Mobarak Hussain Resident of village - Chainpur Dhaka, P.S.- Dhaka, District - East Champaran at Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anang Mohan Sinha, Adv.

For the Opposite Party/s : Mr. Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 17-04-2023 Heard learned counsel for the petitioners, learned counsel for the informant and learned Additional Public Prosecutor for the State.

Petitioners seek bail, who are in custody since 12.10.2022, in connection with Dhaka P.S. Case No. 615/2022, F.I.R. dated 06.10.2022 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307, 354(B), 390, 386, 504, 506 of the I.P.C. & Sections 3/4 of the Witchcraft Act and Section 6 of the POCSO Act.

According to prosecution case, the petitioners along with other family members having armed with iron rod, *farsha*, *bhala* etc assaulted the informant and thereafter took out



Rs.10,000/- from her attachi.

Learned counsel for the petitioners submits that petitioners are innocent and they have falsely been implicated in the present case. He further submits that it appears from the F.I.R. that the F.I.R. is in two parts. In first part, there is general and omnibus allegation against all the accused persons including the petitioners. In second part, there is specific allegation against the petitioners that they have assaulted to Monazara Khatoon on her head by means of *farsha* but the injury report of Monazara Khatoon suggests that the injury is simple in nature. He further submits that there is case and counter case between the parties and there is admitted land dispute between the parties. He further submits that the police after investigation submitted the charge sheet against the petitioners and the petitioners are in custody since 12.10.2022.

The learned counsel for the informant as well as learned Additional Public Prosecutor for the State on the other hand vehemently opposed the prayer of bail and submits that the petitioners carried number of cases other than the present one but all these cases are lodged due to land dispute between the parties related to two civil suit pending before the Sub-Judge-IV, Sikrahna at Dhaka.



Considering the aforesaid facts and circumstances, let the petitioners, above named, 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 the learned 6th Additional Sessions Judge-cum-Special Judge POCSO, Motihari, East Champaran, in connection with Dhaka P.S. Case No.615 of 2022, subject to 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 cancelled 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.

3. 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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