

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19112 of 2024

Arising Out of PS. Case No.-236 Year-2023 Thana- CHACKMEHSI District- Samastipur

1. Prakash Thakur S/O Anil Thakur, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
2. Ranjeet Sahni S/O Laxman Sahni, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
3. Raghunath Mishra S/O Late Parikshan Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
4. Mohan Mishra S/O Raghunath Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
5. Rupesh Mishra S/O Sanjay Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
6. Baleshwar Mishra S/O Baijnath Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
7. Pankaj Mishra S/O Phulkant Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
8. Pawan Mishra S/O Mohan Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
9. Mukesh Mishra S/O Sanjay Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
10. Buthu Mishra @ Bachhu Mishra, S/O Late Udgar Mishra R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
11. Aatma Mishra S/O Mohan Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
12. Sanjay Mishra S/O Baidyanath Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
13. Hari Mishra S/O Baidyanath Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.
14. Kamod Mishra S/O Raghunath Mishra, R/O Village- Sakari, P.S- Piar (Hatha O.P), Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abhay Shanker Singh, Advocate
For the Informant	:	Mr. Abhay Kumar, Advocate
For the State	:	Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA



ORAL ORDER

2 18-04-2024 Heard Mr. Abhay Shanker Singh, the learned counsel for the petitioners, Mr. Abhay Kumar, the learned counsel for the informant and Mr. Anuj Kumar Shrivastava, the learned Additional Public Prosecutor for the State.

2. At the outset learned counsel for the petitioners submits that during the pendency of the present bail petition, petitioner no. 6 namely, Baleshwar Mishra has been arrested and therefore, this application with regard to the aforesaid petitioner has become infructuous. Hence, he seeks permission to withdraw this application with regard to petitioner no. 6 only.

3. Permission, as prayed for, is accorded.

4. Accordingly, the anticipatory bail application with respect to petitioner no. 6 is dismissed as withdrawn.

5. The petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 are apprehending their arrest in connection with Chakmaheshi PS Case No. 236 of 2023, FIR dated 18.12.2023, registered for the offences punishable under Sections 341, 323, 324, 329, 385, 379, 447, 436, 427 and 504 read with Section 34 of the Indian Penal Code.

6. According to prosecution case, a verbal altercation took place between the informant and one Pankaj Mishra over irrigation of informant's wheat field. It is further alleged that the



petitioners along with FIR named accused persons came at the house of the informant and sabotaged his house and took ornaments worth Rs. 5,00,000/- (Rupees five lakhs), Rs. 40,000/- (Rupees forty lakhs) cash and documents of the land. It is further alleged that the accused persons also assaulted the family members of the informant and demanded Rs. 10,00,000/- (Rupees ten lakhs) in lieu of cultivating the field.

7. Learned counsel for the petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 submits that upon perusal of the FIR, it appears that the present occurrence has taken place due to dispute with regard to the irrigation of the field between the parties and there is case and counter case between the parties. He further submits that upon perusal of the FIR it also appears that there is no specific allegation of any assault or overt act, rather there is general and omnibus allegation against all the co-accused persons including the petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 that they have assaulted two family members of the informant namely, Usha Devi and Gautam Kumar and although they have received the injury, but the injury report of the injured persons suggests that injury is simple in nature.

8. The learned counsel for the informant as well as the learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner nos. 1, 2, 3, 4, 5, 7, 8,



9, 10, 11, 12, 13 and 14 and submits that petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 are named in the FIR and there is direct and specific allegation against them that they have assaulted the family members of the informant. He also submits that petitioner nos. 1, 2, 8, 10 and 11 have fair and clean antecedent while petitioner nos. 3, 4, 5, 7, 9, 12, 13 and 14 have one criminal antecedent other than the present one, however, he fairly admits that petitioner nos. 3, 4, 5, 7, 9, 12, 13 and 14 are on bail in the pending matter.

9. Considering the aforesaid facts and circumstances and the fact that there is no specific allegation of any assault or overt act, there is case and counter case between the parties and injury found on the person of injured is simple in nature, let the petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 above-named, in the event of their arrest or surrender before the trial Court, within a period of four weeks from the date of receipt of the order, be released on anticipatory 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 Judicial Magistrate-1st Class, Samastipur, where the case is pending in connection with **Chakmaheshi PS Case No. 236 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:



(i). Petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial Court and shall remain physically present as directed by the trial Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the trial Court.

(ii). If the petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 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 trial Court shall verify the criminal antecedent of the petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 and in case, at any stage, it is found that the petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 have concealed their criminal antecedent, the trial Court shall take step for cancellation of bail bond of the petitioner nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14. 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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