

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62765 of 2023

Arising Out of PS. Case No.-441 Year-2023 Thana- FORBESGANJ District- Araria

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1. Md Jahangir @ Sekh Jahanger Hussain S/O Late Gayas Resident Of East Kurahle, Ward No. 7, Ps. Forebesganj, Dist. Araria
 2. Md. Perwez @ Pervez @ Parwej Hussain S/O Late Gayas Resident Of East Kurahle, Ward No. 7, Ps. Forebesganj, Dist. Araria
 3. Md. Mustaque @ Md. Musatq S/O Late Amir Hussain Resident Of East Kurahle, Ward No. 7, Ps. Forebesganj, Dist. Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anamul Haque, Advocate
For the Opposite Party/s : Mr. Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 29-02-2024 Heard Mr. Anamul Haque, the learned counsel for the petitioners and Mr. Umeshanand Pandit, the learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Forbesganj PS Case No. 441 of 2023, FIR dated 20.05.2023, registered for the offences punishable under Sections 341, 323, 325, 326, 307, 386, 379 and 504 read with Section 34 of the Indian Penal Code.

3. According to prosecution case, when the informant was constructing boundary wall on his newly purchased land, the co-accused persons armed with *bhala, farsa, lathi, danda* and iron-rod assaulted the informant. It is further alleged that the co-

accused persons snatched Rs. 25,000/- (Rupees twenty-five thousand), a mobile phone and a silver chain from the informant and also demanded Rs. 50,000/- (Rupees fifty thousand) in *rangdari*.

4. Learned counsel for the petitioners submits that petitioners have falsely been implicated in the present case due to admitted land dispute and case and counter-case between the parties. He further submits that upon perusal of the FIR, it appears that there is specific allegation against the petitioners that they have assaulted the informant with *farsa* and other weapons. Although, the informant has received injury, but the same is found to be simple in nature.

5. The learned Additional Public Prosecutor for the State on the other hand on the basis of materials available on record and the case diary has vehemently opposed the prayer for bail of the petitioners and submits that the injury report of the informant suggests that he has received 3 injuries and out of them, injury no. 1 and 2 is grievous in nature and injury no. 3 is simple in nature. He also submits that petitioner no. 1 carries one more criminal antecedent other than the present one, petitioner no. 2 carries two more criminal antecedents other than the present one and petitioner no. 3 carries one more criminal antecedent other than the present one.

6. Considering the aforesaid facts and circumstances and the fact that there is specific allegation against petitioner nos. 1 and 2, I am **not** inclined to grant the privilege of anticipatory bail to the petitioner nos. 1 and 2 in connection with Forbesganj PS Case No. 441 of 2023, pending in the Court of learned Chief Judicial Magistrate, Araria.

7. Accordingly, the prayer for grant of anticipatory bail to the petitioner nos. 1 and 2, is rejected.

8. In respect of petitioner no. 3, learned counsel for petitioner no. 3 submits that there is no allegation of any assault or overt act attributed against him and the only allegation against petitioner no. 3 is that he has snatched Rs. 25,000/- (Rupees twenty-five thousand) from the pocket of the informant.

9. Considering the aforesaid facts against petitioner no. 3, let the petitioner no. 3, above-named, in the event of his arrest or surrender before the Court below, 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) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Araria, where the case is pending in connection with **Forbesganj PS Case No. 441 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 no. 3 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(ii). If the petitioner no. 3 tampers 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 petitioner no. 3 and in case, at any stage, it is found that the petitioner no. 3 has concealed his criminal antecedent, the Court below shall take step for cancellation of bail bond of the petitioner no. 3. 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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