

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62931 of 2023

Arising Out of PS. Case No.-138 Year-2023 Thana- HARSIDHI District- East Champaran

1. Kohenor Begam Wife Of Aas Mohammad Miyan R/O Vill - Mathlohiyar, Noniya Tola, P.S. - Harsidhi, Distt. - East Champaran
2. Noorsaba Begam Wife Of Shaukat Ali R/O Vill - Mathlohiyar, Noniya Tola, P.S. - Harsidhi, Distt. - East Champaran
3. Aas Mohammad Miyan Son Of Akbar Miyan R/O Vill - Mathlohiyar, Noniya Tola, P.S. - Harsidhi, Distt. - East Champaran
4. Saddam Hussain Son Of Mustakim Miyan R/O Vill - Mathlohiyar, Noniya Tola, P.S. - Harsidhi, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kundan Rathore@ Kundan Kumar, Advocate
For the State : Mr. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 27-02-2024 Heard Mr. Kundan Rathore, learned counsel for the petitioners and Mr. Pronoti Singh, learned counsel appearing on behalf of the State.

2. After some arguments, learned counsel for the petitioners seeks permission to withdraw this application with regard to petitioner no.4, namely, Saddam Hussain.

3. Permission is accorded.

4. Accordingly, this application is dismissed as withdrawn with respect to petitioner no.4. Now, this application survives only with regard to petitioner no.1, 2 & 3 only.



5. Heard learned counsel for the petitioners (except petitioner no.4) and learned Additional Public Prosecutor for the State.

6. The petitioners are apprehending their arrest in connection with Harsidhi P.S. Case No. 138 of 2023, F.I.R. dated 23.02.2023 for the offences punishable under Sections 341, 323, 324, 354(b), 379, 307, 504, 506 and 34 of the Indian Penal Code.

7. According to prosecution case, petitioners are said to have assaulted the informant and his family members with deadly weapons.

8. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that from a bare perusal of the FIR it appears that there is specific allegation of assault is attributed against the co-accused person, namely, Saukat Ali and Saddam Hussain. He further submits that there is no specific allegation of any assault or over act is attributed against the petitioners rather general and omnibus allegations.

9. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners.

10. Considering the aforesaid facts and circumstances



and the fact that petitioners having clean antecedent and there is no specific allegation of any assault or overt act attributed against the petitioners, let the petitioners (except petitioner no.4), above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Motihari, East Champaran in connection with Harsidhi P.S. Case No. 138 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 his absence on two consecutive dates without sufficient reason, his 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 bonds 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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