

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64437 of 2023

Arising Out of PS. Case No.-1090 Year-2022 Thana- AHIYAPUR District- Muzaffarpur

1. Upendra Prasad Son of Late Ramvriksha Prasad Resident of Village -Shivrahan Manjhauliya, PS- Ahiyapur, District -Muzaffarpur.
2. Akindra Prasad Son of Late Ramvriksha Prasad Resident of Village -Shivrahan Manjhauliya, PS- Ahiyapur, District -Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Shekhar Anand, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 29-02-2024 Heard Mr. Chandra Shekhar Anand, the learned counsel for the petitioners and Mr. Jharkhandi Upadhyay, the learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Ahiyapur PS Case No. 1090 of 2022, FIR dated 29.11.2022, registered for the offences punishable under Sections 447, 341, 323, 307 and 324 read with Section 34 of the Indian Penal Code.

3. According to prosecution case, the accused persons assaulted the informant due to a dispute regarding cutting of soil near a cemetery. It is further alleged that co-accused Rajendra Prasad inflicted spade blow on the head of the informant due to which he sustained injury.



4. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case and there is case and counter case between the parties. He further submits that upon perusal of the FIR, it appears that there is dispute related to the cutting of soil near the cemetery and it also appears from the FIR that there is no specific allegation of any assault or overt act attributed against the petitioners, rather there is specific allegation of assault is attributed against the co-accused person namely, Rajendra Prasad.

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

6. Considering the aforesaid facts and circumstances and the fact that the petitioners have clean antecedent and there is no specific allegation of any assault or overt act attributed against the petitioners, let the petitioners, above-named, in the event of their 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) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Muzaffarpur, where the case is pending in connection with **Ahiyapur PS Case No. 1090 of 2022**, 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.

(Rajesh Kumar Verma, J)

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