

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83174 of 2023

Arising Out of PS. Case No.-305 Year-2016 Thana- MOTIHARI TOWN District- East
Champaran

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1. Faiz Khan @ Sabba S/O Faiyaj Khan, resident of Mohalla- Nakchhed Tola, Ward No. 04, Ps. Motihari Town, Dist. East Champaran.
 2. Saiyad Md. Gulab @ Syed Md. Gulab S/O Late Md. Idris resident of Mohalla- Nakchhed Tola, Ward No. 04, Ps. Motihari Town, Dist. East Champaran.
 3. Bade Miya @ Nasim S/O Late Md. Idris, resident of Mohalla- Nakchhed Tola, Ward No. 04, Ps. Motihari Town, Dist. East Champaran.
 4. Md. Raju @ Tabrej Alam S/O Late Md. Nejam, resident of Mohalla- Nakchhed Tola, Ward No. 04, Ps. Motihari Town, Dist. East Champaran.
 5. Bablu @ Syed Javed Alam S/O Late Md. Nejam, resident of Mohalla- Nakchhed Tola, Ward No. 04, Ps. Motihari Town, Dist. East Champaran.
 6. Md. Saddam S/O Late Md. Nejam, resident of Mohalla- Nakchhed Tola, Ward No. 04, Ps. Motihari Town, Dist. East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Saurav Karn, Advocate
		Mr. Saurabh Kumar, Advocate
For the Opposite Party/s	:	Mr. Lalan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 10-01-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. Learned counsel for the petitioners submits that petitioner no. 3, namely, Bade Miya @ Nasim has been arrested during the pendency of this anticipatory bail application, and he has granted bail by the lower court. As such, he wants to withdraw the anticipatory bail application on behalf of petitioner



no. 3.

3. Accordingly, anticipatory bail application in so far as it relates to petitioner no. 3, namely, Bade Miya @ Nasim is dismissed as withdrawn.

4. The anticipatory bail application now confines to petitioner nos. 1, 2, 4, 5 and 6.

5. The petitioners apprehend arrest in connection with Trial No. 488 of 2022 arising out of Motihari Town P.S. Case No. 305 of 2016 dated 08.05.2016 instituted for the offence punishable under Sections 147, 149, 341, 323, 324, 307, 379, 504 of the Indian Penal Code.

6. The prosecution case, in short, is that due to earlier dispute, on 08.05.2016, all the petitioners along with other accused persons armed with weapons, surrounded the informant and at the behest of petitioner no. 2, all the accused persons started assaulting the informant with lathi. When the brother of the informant came to rescue, accused persons assaulted him and petitioner no. 1, namely, Faiz Khan @ Sabba opened firing from *nalkatua*, which was ward off by the informant. Faiyaz Khan and petitioner no. 4, namely, Md. Raju also tried to kill the informant by making a trap in his neck. It is further alleged that during assault, petitioner no. 6, namely, Md. Saddam snatched Rs. 5,000/- from the pocket of the informant and petitioner no.



5, namely, Bablu snatched gold ring from the informant.

7. Learned counsel for the petitioners submits that the petitioners are innocent and they have been falsely implicated in this case. It is further submitted that there is counter case bearing Motihari Town P.S. Case No. 304 of 2016 lodged under Section 307 of the Indian Penal Code and allied sections by the petitioner no. 2 against the informant and others, prior to the present case. Learned counsel for the petitioners submits that charge sheet has been submitted under bailable sections, and cognizance has been taken under Sections 147, 149, 341, 323, 324, 307, 379, 504 of the Indian Penal Code. Learned counsel for the petitioners submits that now, a good sense has been prevailed between the parties and a compromise petition duly signed by the both the parties has been filed before the lower court. Learned counsel for the petitioners submits that from perusal of the impugned order, it is evident that nature of injury is simple in nature caused by sharp object. Lastly, it has been submitted that petitioners have no criminal antecedents.

8. Learned A.P.P. has opposed the prayer for anticipatory bail of the petitioners.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in



the event of arrest / surrender of the petitioner nos. 1, 2, 4, 5 and 6 within a period of six weeks from today, in connection with Motihari Town P.S. Case No. 305 of 2016, they shall be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., East Champaran, Motihari subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Khatim Reza, J)

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