

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.549 of 2024

Arising Out of PS. Case No.-247 Year-2023 Thana- SAMASTIPUR District- Samastipur

1. MD. RAHMAT S/O Taiyayab Resident of village- Ladaura, Ward No.- 6, P.S.- Kalyanpur, District- Samastipur
2. Md. Ahamad S/O- Taiyayab Resident of village- Ladaura Dargah, P.S.- Kalyanpur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Thakur, Advocate
For the State	:	Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 09-04-2024 Heard Mr. Mukesh Kumar Thakur, learned counsel
for the petitioners and Mr. Anand Kishore Choudhary, learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Samastipur Town P.S. Case No. 247 of 2023, F.I.R. dated 23.09.2023 for the offences punishable under Sections 341, 342, 323, 324, 307, 326, 120(B) and 34 of the Indian Penal Code.

3. According to prosecution case, the allegation against the petitioners that they caught both legs of the informant and co-accused Tayab Miya cut the testicle with sharp edge weapon.

4. 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 due to admitted land dispute the present occurrence has taken place and there is one Title Suit No. 80 of 2020 is pending between the parties. He further submits that from a bare perusal of the FIR it appears that the date of occurrence as alleged in the FIR is 14.09.2023 and the statement of informant was recorded on 16.09.2023 but the present FIR instituted on 23.09.2023 after a delay of nine days without giving any explanation for the delay. He further submits that there is no specific allegation of assault or overt act is attributed against these petitioners and the main allegation of assault is attributed against the co-accused person, namely, Taiyab Miya who died in the police custody.

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

6. Considering the aforesaid facts, the petitioners having clean antecedent and there is no accusation of any assault or overt act attributed against these petitioners, let the petitioners, 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 C.J.M., Samastipur in connection with Samatipur Town P.S. Case No.



247 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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