

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34996 of 2025

Arising Out of PS. Case No.-183 Year-2017 Thana- MOTIHARI MUFASIL District- East
Champaran

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1. Santosh Mali son of Late Punti Mali @ Pundev Malik R/o Chhatauni Mathiya Dom Toli P.S. -Chhatuani District -East Champaran
 2. Jitan Mali son of Bnagali Mali R/o Chhatauni Mathiya Dom Toli P.S. -Chhatuani District -East Champaran
 3. Manoj Mali Son of shankar Mali R/o Chhatauni Mathiya Dom Toli P.S. -Chhatuani District -East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Asif Kalim, Adv.

For the Opposite Party/s : Mr.Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 02-09-2025 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. Petitioners are apprehending arrest in connection with Mufassil P.S. Case No. 183 of 2017 registered for the offences punishable under Sections 323, 341, 354, 379, 436, 34 of the Indian Penal Code and section 3/4 of the Daayan Act.

3. As per prosecution case, it is alleged that on 18.12.2015 while the informant/complainant was sitting at his door, all the accused persons came at his door and started abusing. It is alleged that accused Santosh Mali (petitioner no. 1) abused the informant saying that he has played witch craft



over his nephew. It is further alleged that accused Amardeo Mali also said that informant has played witch craft over his wife. It is further alleged that all the accused persons entered into the house of the informant, caught him and assaulted him by means of lathi, danda and fists. It is further alleged that when informant's wife and daughter-in-law came to rescue, they were assaulted by all the accused persons. It is further alleged that accused Jitan Mali (petitioner no. 2) snatched Rs. 1000/- from the pocket of the informant/complainant. It is further alleged that complainant/informant gave written information regarding the incident to the Muffasil P.S. on 22.12.2015 but no case was lodged. It is further alleged that on the night of 22.12.2015 itself, all the accused persons set the house of the complainant/informant on fire and when the informant woke up, he saw all the accused persons fleeing away. It is further alleged that in the alleged incident, the informant/complainant sustained a loss of around Rs. 20,000/- and his cash amounting to Rs. 10,000 got burnt in the said incident. It is further alleged the informant/complainant went to the police station but no action was taken and thereafter he gave a written application to the Superintendent of Police, Motihari on 07.01.2016, but no action has been taken till date.



4. The said complaint was sent to the Mufassil P.S. under section 156(3) Cr.P.C. for registration of F.I.R. and after due enquiry, Mufassil P.S. Case No. 183 of 2017 was registered.

5. Learned counsel for the petitioners submits that petitioners are innocent and have committed no offence as alleged in the first information report. It is submitted that the prosecution story is completely false and frivolous as the petitioners have nothing to do with the alleged occurrence and they have been made accused in this case on account of enmity and local politics. Learned counsel submits that the present case has originated from the complaint case which is well crafted, well drafted and an afterthought mechanism to implicate the petitioners without any basis. Learned counsel submits that the alleged occurrence of abusing and assaulting the informant/complainant by the accused persons including the present petitioner took place on 18.12.2015 but no complaint was lodged by the informant. It is submitted that informant/complainant approached the police station on 22.12.2015. The delay of the period in between 18.12.2015, when the first occurrence of abusing and assault upon the informant took place, and the date of approaching the police station i.e. 22.12.2015, has not been explained by the



informant/complainant, which questions the authenticity of the prosecution story. It is further submitted that no offence has been committed by the petitioners which constitutes any offence under section 436 I.P.C. and section 3/4 of the Daayan Act and the same is nothing but super-addition in order to make the offence graver. It is further submitted that petitioners are men of clean antecedent. It is lastly submitted that good sense has already prevailed between the parties and they have entered into a compromise on 01.02.2025 and in this regard they filed a petition in the concerned Court, as contained in Annexure-P/3. In para 2 of the petition, declaration has been made that petitioners have not filed any other application either for grant of anticipatory bail or regular bail in this Hon'ble High Court in the present case and there is no any anticipatory bail application pending before the court below or either in this Court or Hon'ble Apex Court.

5. The learned A.P.P. for the State vehemently opposes the prayer for anticipatory bail of the petitioners.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent of petitioners, argument advanced on behalf of both sides and also taking into consideration the material available on record, the petitioners,



above named, in the event of arrest or surrender within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Motihari, East Champaran in connection with Mufassil P.S. Case No. 183 of 2017, subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Alok Kumar Pandey, J)

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