

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5862 of 2025

Arising Out of PS. Case No.-6 Year-2019 Thana- KUNDWACHAINPUR District- East
Champaran

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1. Md. Jubair @ Sk. Jobair @ Shekh Jubair Son of Late Naeem @ Late Shekh Naeem Resident of village -Badka Hardiya, P.S.- Kundwa Chainpur, District- East Champaran.
 2. Md. Hasin Akhatar @ Hasin Akhtar son of Shekh Sagir Resident of village -Badka Hardiya, P.S.- Kundwa Chainpur, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh, Advocate
For the Opposite Party/s : Mr.Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 15-02-2025 1. Heard learned counsel appearing on behalf of the

petitioners and learned Additional Public Prosecutor appearing

on behalf of the State.

2. At the outset, it is submitted by learned counsel

for the petitioners that during pendency of this case,

petitioner no. 1, namely, Md. Jubair @ S. K. Jobair @ Shekh

Jubair has already been arrested, as such, present

anticipatory bail application of petitioner no. 1 has become

infructuous.

3. Accordingly, the prayer of anticipatory bail

application of petitioner no. 1, namely, Md. Jubair @ Sk.



Jobair @ Shekh Jubair stands dismissed as withdrawn having become infructuous.

4. Now, this application survives only for petitioner no. 2, namely, Md. Hasin Akhatar @ Hasin Akhtar.

5. The accused/petitioner no. 2 is named in F.I.R. and apprehending his arrest in connection with Trial No. 492 of 2022 arising out of Kundwa Chainpur P.S. Case No. 06 of 2019, registered for the offences punishable under Sections 147, 149, 436, 323, 324, 307, 354 and 379 of the Indian Penal Code.

6 .The allegation against the petitioner is to assault informant and others alongwith named co-accused persons, causing head and bodily injury, having intention to cause death, where occurrence is alleged to be arising out of land dispute.

7. Learned counsel appearing on behalf of the petitioner submitted that the physical assault was caused by using *Farsa*. It is submitted that occurrence was free fight in nature, where both parties received injuries and for said occurrence, petitioner's side also lodged a case against



informant side, which was registered as Kundwa Chainpur P.S. Case No. 05 of 2019. It is submitted that occurrence was free fight in nature, it can be gathered safely that petitioner was not under intention to cause death. It is pointed out that the allegation against petitioner is to assault one Md. Kalamuddin Miyan, who as per medical report appears to receive four injuries but all are of simple in nature caused by hard blunt substance, negating the allegation that the assault as alleged caused by this petitioner was due to *Farsa*, which is sharp-edged weapon. Petitioner is said to be a man of clean antecedent.

8. Learned APP opposes the prayer of bail.

9. Considering the aforesaid facts and circumstances and by taking note of fact as occurrence appears *prima facie* free fight in nature, where the injury as caused by this petitioner during the occurrence appears simple in nature, negating *prima facie* intention to cause death, accordingly, above named petitioner, in the event of his arrest or surrender before the learned trial Court, within a period of four weeks of the order, is directed to be released on



bail furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Sikarahana at Dhaka Motihari, East Champaran/concerned Court, where the case is pending in connection with Trial No. 492 of 2022 arising out of Kundwa Chainpur P.S. Case No. 06 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C./482(2) of the BNSS.

(Chandra Shekhar Jha, J)

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