

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35007 of 2026

Arising Out of PS. Case No.-187 Year-2022 Thana- AMAUR District- Purnia

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1. Mohsin @ Md Mohsin S/O Late Suleman R/O Village- Paharia, P.S.- Amour, Distt.- Purnea.
 2. Md Ismaeel @ Ismail S/O Late Jainuddin R/O Village- Artaha, P.S.- Rauta, Distt.- Purnea.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dheeraj Kumar, Advocate

For the Opposite Party/s : Mr. Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

2 25-05-2026 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners seek regular bail in connection with Amour P.S. Case No. 187 of 2022, registered under Sections 147, 148, 149, 341, 323, 324, 307 and 385 of the I.P.C.

3. The allegation is that in the backdrop of a land dispute, 23 named persons attacked the informant side. So far as the present petitioners are concerned, the allegation against Mohsin (petitioner no. 1) is of assaulting one Abushama on his head with a sword, and the allegation against Md. Ismaeel (petitioner no. 2) is of assaulting Md. Shamim Akhtar on the head, also with a sword. Perusal of the records would show that



Md. Shamim Akhtar sustained a grievous sharp cut wound on the head. As regards petitioner no. 1, however, there is no injury report of Abushama presently on record, which renders it difficult, on a prima facie examination, to identify the specific overt act attributable to him from amongst the melee alleged. The charge under Section 307 IPC has been urged against both petitioners; however, having regard to the nature of the individual acts attributed to each of them in the FIR and the state of the medical record as noted above, the material on record does not prima facie sustain a charge of attempt to murder as against these petitioners individually, as distinct from the general rioting alleged against the group.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. It is further submitted that a counter case bearing Amour P.S. Case No. 179 of 2022 was filed by the petitioners' side a day prior to the registration of the instant case, and that Title Suit No. 25 of 2022 had also been instituted by the petitioners' side against the informant side in connection with the same land dispute. The occurrence is stated to be of 29.05.2022, whereas the F.I.R. came to be lodged as late as 06.06.2022, i.e., after a delay of one week. The petitioners are



stated to have a clean antecedent and have remained in custody since 26.02.2026.

5. The question of delay in lodging an F.I.R. and its consequences has been authoritatively considered by the Hon'ble Supreme Court in ***Thulia Kali vs. State of Tamil Nadu*** (1972) 3 SCC 393. Para 12 of the said judgment reads as under:

"... First Information Report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eyewitnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay, the report not only gets bereft of the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in the lodging of the first information report should be satisfactorily explained..."

In the instant case, the F.I.R. was lodged a full week after the date of the alleged occurrence, and no explanation for this delay has been placed on record. This circumstance, read in the light of the principle enunciated in Thulia Kali (supra), raises a prima facie inference that the version as set out in the FIR may have been shaped by deliberation and embellishment, particularly with regard to the



specific attribution of roles to individual accused persons.

6. Learned APP for the State has vehemently opposes the prayer for bail of the petitioners.

7. Having regard to the totality of circumstances, namely, the backdrop of a pre-existing land dispute between the parties, the pendency of a counter case and a civil title suit instituted by the petitioners' side, the unexplained delay of one week in lodging the FIR, the absence of a medical record corroborating the specific overt act attributed to petitioner no. 1, the fact that the individual acts alleged prima facie do not disclose attempt to murder as against these petitioners, the clean antecedent of the petitioners, and the period of custody already undergone, this Court is of the view that the petitioners have made out a case for grant of regular bail. The bail application is accordingly allowed.

8. Accordingly, let the petitioners above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., Purnea /concerned court below in connection with Amour P.S. Case No. 187 of 2022.

9. It is made clear that any observation made herein is



prima facie in nature and limited solely for the purpose of adjudication of the present bail application. Such observations shall not be construed as an expression on the merits of the case and shall not influence the trial or any other proceedings in any manner.

(Ansul, J)

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