

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.16757 of 2021**

Arising Out of PS. Case No.-325 Year-2020 Thana- BAJPATTI District- Sitamarhi

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1. Md. Gulab, aged about 44 years, (Male).
  2. Md. Ubaid, aged about 43 years, (Male).
  3. Md. Zunaid, aged about 36 years (Male).
  4. Md. Suhail, aged about 45 years (Male).
- All are sons of Md. Shoeb, resident of Village- Kanchanpur, P.S.- Bajpatti,  
District- Sitamarhi.
- ... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s	:	Mr. Ashok Kumar Jha, Advocate
For the State	:	Mr. Sakir Ahmad, APP
For the Informant	:	Mr. Alok Kumar Jha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH  
ORAL JUDGMENT**

**Date : 21-08-2021**

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 09.08.2021, which was allowed.

3. Heard Mr. Ashok Kumar Jha, learned counsel for the petitioners; Mr. Sakir Ahmad, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Alok Kumar Jha, learned counsel for the informant.

4. The petitioners apprehend arrest in connection with Bajpatti PS Case No. 325 of 2020 dated 13.08.2020, instituted



under Sections 341, 323, 324, 307, 379, 427, 447, 504, 506/34 of the Indian Penal Code.

5. The allegation against the petitioners and ten others is of assault on the informant and others resulting in injuries and specifically against the petitioner no. 1 is of assault by *farsa* on the head of Md. Ezaz and against the petitioners no. 2 and 4 is of assault by iron rod on the informant, Md. Tanseer, whereas, against the petitioner no. 3 the allegation is of hitting Enamul Haque by cemented pillar.

6. Learned counsel for the petitioners submitted that the parties are agnates and the dispute arose during Panchayati. It was submitted that besides the occurrence being on the spur of the moment, there is also a counter case. Learned counsel submitted that though the incident took place on 11.08.2020, but the FIR was lodged on 13.08.2020, that too, on the written report submitted in the police station, which clearly indicates that there were no serious injuries on the side of the informant. Thus, it was submitted that there is no explanation for the delay of almost two days in lodging of the FIR. Further, it was submitted that the case filed by the petitioners' side has been lodged on the basis of *fard beyan* of Md. Ubaid from Sadar Hospital, Sitamarhi, which shows that he was badly injured and



was in the hospital. Learned counsel drew the attention of the Court to the injury report of Md. Ezaz, who is said to have been assaulted by petitioner no. 1, which discloses two incised wounds bone deep on the head besides other wounds; injury report of Enamul Haque shows swelling on the lips and mobility of teeth of lower and upper region, which is attributed to the petitioner no. 3 as also the injury report of Md. Tanseer, who is the informant and is said to have been assaulted by the petitioners no. 2 and 4, which discloses lacerated wound skin deep on the skull and bodyache. It was submitted that the nature of injuries have been said to be simple caused by hard and blunt substance except for that of Md. Ezaz on whom bleeding from both nostrils was also found, which is said to be grievous in nature. Learned counsel submitted that the petitioners have no other criminal antecedent.

7. Learned APP submitted that there is specific allegation of assault against all the petitioners and the same has also resulted in injuries.

8. Learned counsel for the informant submitted that just because there is a counter case, it does not mean that the present case is false. However, he could not controvert that there is no explanation for the delay in lodging the FIR and further,



the injury reports, copies of which have been brought on record, were also not controverted.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that as there is specific allegation of overt act against the petitioner no. 1 that he assaulted by *farsa* on the head of Md. Ezaz, who sustained bone deep injuries on the head, the Court is not persuaded to grant pre-arrest bail to him.

10. Accordingly, prayer for pre-arrest bail on behalf of the petitioner no. 1, Md. Gulab, stands rejected.

11. As far as petitioners no. 2, 3 and 4 are concerned, in view of the specific overt act against the petitioners no. 2 and 3 i.e., Md. Ubaid and Md. Junaid, of hitting by iron rod on the head of the informant Md. Tanseer and there being only one lacerated wound on the head which is simple in nature as also the fact that against petitioner no. 3, Md. Junaid, there is allegation of assault on Enamul Haque whose lips were swollen and there was mobility of teeth of lower and upper region and all the aforesaid injuries have been found to be simple in nature caused by hard and blunt substance and that the petitioners no. 2, 3 and 4 have no other criminal antecedent, the Court is inclined to allow their prayer for pre-arrest bail.



12. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners no. 2, 3 and 4, Md. Ubaid, Md. Zunaid, and Md. Suhail, respectively, be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Pupari at Sitamarhi, in Bajpatti PS Case No. 325 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioners no. 2, 3 and 4, (ii) that the petitioners no. 2, 3 and 4 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners no. 2, 3 and 4, and (iii) that the petitioners no. 2, 3 and 4 shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or undertaking or failure to cooperate shall lead to cancellation of their bail bonds.

13. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioners no. 2, 3 and 4, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of



hearing to the petitioners no. 2, 3 and 4.

14. The petition stands disposed of in the  
aforementioned terms.

15. However, in view of submission of learned  
counsel for the petitioners, it is observed that if the petitioner  
no. 1, Md. Gulab, appears before the Court below and seeks  
bail, the same shall be considered on its own merits, in  
accordance with law, without being prejudiced by the present  
order.

**(Ahsanuddin Amanullah, J)**

J. Alam/-

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