

Dated: 25/01/2022

B.P. No. 81/2022 &  
B.P. No. 86/2022

THE COURT OF SHWAYMBHU, ADDL. SESSIONS JUDGE-II, DHANBAD.

**B.P. No. 81/2022**

(Arising out of Dhanbad P.S. Case No. 10/2022)

(C.N.R. No. JHDH01-000679-2022)

Sanjay Sharma, So Suryamani Sharma

..... Petitioner

Versus

State of Jharkhand

..... Opp. Party

Counsel for the defence: Sri S.A. Mallik, Advocate

Counsel for the prosecution: Sri K.P. Sharma, Ld. Addl. P.P.

**With**

**B.P. No. 86/2022**

(Arising out of Dhanbad P.S. Case No. 10/2022)

(C.N.R. No. JHDH01-000667-2022)

Jitendra Sao @ Jitendra Kumar @ Doli Sao, S/o Raj Kumar Sao

..... Petitioner

Versus

State of Jharkhand

..... Opp. Party

Counsel for the defence: Sri A.K. Trivedi, Advocate

Counsel for the prosecution: Sri K.P. Sharma, Ld. Addl. P.P.

Date of remand of both the petitioners

08.01.2022

**ORDER**

25/01/2022

Bail petition vide B.P. No. 81/2022 related to petitioner,

**Sanjay Sharma**, who is in custody since 08.01.2022 and B.P. No.



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86/2022 related to petitioner, **Jitendra Sao @ Jitendra Kumar @ Doli Sao**, who is in custody since 08.01.2022, in connection with Dhanbad P.S. Case No. 10/2022 registered u/ss 143, 149, 323, 328, 307, 153A of IPC, are put up for hearing.

***Above noted both bail petitions arise out of the same P.S. Case and as such they are taken up together and disposed of by this common order.***

Heard the learned counsel for the petitioner and the learned Addl. Public Prosecutor appearing on behalf of the State on video conferencing.

Prosecution case in brief is that on dated 07.01.2022 the informant's elder brother Jisan Khan was on way to Combined Building, City Centre where a protest programme was going on near Gandhi statue. It is stated that viewing the informant's brother who belongs from a different community. The accused persons assaulted him, forced him to lick his own sputum and forced him to chant the slogan of Jai Shree Ram. It is stated that in the occurrence his brother got injured.

Learned counsel for the defence submitted that earlier no regular bail petition was filed either before this court or before the Hon'ble High Court of Jharkhand Ranchi. It is submitted that they are innocent and have falsely been implicated in this case. That the informant has lodged a false, fabricated, concocted and afterthought written report against the petitioners with his oblique motive and on being forwarded by the opposition party. That the petitioners are unnecessarily been victimized. It is stated that in fact it was the Jisan Khan who used filthy words against God Sri Ram and used filthy words against senior BJP party officials and provoked the people passing by from the place of occurrence and being aggrieved they handed over him to the police. That the petitioners have got no concern whatsoever with the aforesaid incident between the by passers and the informant's brother but they have been roped in because of mere political rivalry. That the alleged offences are not made out against the petitioners from any corner of law. It is submitted that th offences

alleged against the petitioners are u/s 143, 323, 328, 307, 153A r.w. 149 of IPC. As far as Sections 143, 323 of IPC are concerned, the offences are bailable and compoundable in nature. As far as Section 153A of IPC is concerned, that requires sanction for its prosecution which not appears to be applied for by the I.O. till date. As far as section 328 of IPC is concerned, the "sputum" which the brother of the informant as alleged was forced to lick not comes under definition of either poison or stupefying or intoxicating drug and thus the said offence not at all attracts against the petitioners. Moreover the nature of injury vide injury report is simple in nature and thus no offence as alleged u/s 307 of IPC made out. The witnesses of the case diary are not reliable as they are member of rival political party and sponsored one. That their presence at the place of occurrence is itself doubtful. Even the identification of the petitioners by them is without any basis and source and it further shows that they are politically motivated. The allegation is merely of instigation on one of the petitioner whereas of saving the victim from the other accused against the other petitioner. It is further submitted that this case has been amicably compromised between both the parties with the intervention of the well wishers and relatives of the parties, hence a compromise petition has been filed herewith. That the petitioners are in custody since 08.01.2022. Hence it is prayed to enlarge the petitioners on bail.

Learned Addl. P.P. opposes of the prayer of bail.

Heard and perused the record.

Considering the submissions of the parties, the nature of the offence alleged, the injury report, the factum of no objection on bail from the other side and the period of custody, this court thinks it fit to **enlarge** the petitioners, **Sanjay Sharma, Jitendra Sao @ Jitendra Kumar @ Doli Sao** on bail on furnishing bail bond of Rs.10,000/- with two sureties of like amount each subject to condition that:

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1. That during the period of trial/ investigation, the accused petitioners shall not try to contact or influence, directly or indirectly, any of the witnesses of the present case;

2. That the petitioners / accused shall not misuse the benefit of bail by indulging in commission of similar offence in future;

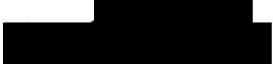
3. That the petitioners will cooperate with the Investigating Officer as and when noticed by him and will furnish their mobile numbers and a copy of their Aadhar Cards in the court below at the time of furnishing bail bonds with the undertaking that he will not change their mobile numbers during the pendency of the case.

4. That the petitioners remain present physically as and when directed by the court without fail.

5. They will follow all the protocols related to Covid-19.

Accordingly, the prayer of the petitioners is allowed.

Office is directed to send copy of this order to the court below along with L.C.R and also upload the order on CIS. (Dictated)

  
(Shwaymbhu)

Addl. Sessions Judge-II,  
Dhanbad.