

In the court of Sri Manoj Chandra Jha, Addl. Judicial Commissioner-III, Ranchi

Misc. Criminal Application No. 2545/2022

CNR :- JHRN 0101 3458-2022

(Arising out of S.T. Case No. 771/2022

In Connection with Nagri P.S. Case No. 45/2022

G.R. Case No. 2069/2022

Schedule XLII – High Court (J) 9a [Old (M) 164.]

Serial No.	Date of Order of Proceeding	Order with signature of the court.	Office notice taken with date.
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	21/12/2022	Suraj Kumar Bhagat, aged about 33 years, S/o - Nakul Bhagat, R/o - Naro, Nagri, Ranchi Petitioner Versus The State of Jharkhand Oppo. Party. For the Petitioner :- Sri S.K. Srivastava, Adv For the State :- Sri Shyam Prasad Chaudhary, ..Addl. P.P <u>ORDER</u> The present petition U/s- 216 of Cr.P.C has been filed on behalf of petitioners namely 1. Chetan Kumar Bhagat, 2. Suraj Kumar Bhagat, 3. Navratan Bhagat and 4. Kuldeep Kumar Bhagat in connection with Nagari P.S. Case No. 45/2022. Heard the learned counsel for the petitioner and the learned Additional P.P. appearing on behalf of the State. The case of the prosecution, in brief, is that the	Contd....

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	Contd..P/3 21/12/2022	in this case under different sections and cognizance was taken. The learned counsel for the petitioners submitted that the petitioners have been granted bail by learned J.C., Ranchi on 16.04.2022. Further submitted that the above case is pending before this learned court and the case is fixed for evidence of prosecution. Further submitted that no petition U/s- 216 of Cr.P.C has been filed either before this learned court or any other court of law. Further submitted that the I.O. has submitted charge sheet against (1) Chetan Bhagat @ Chetan Kumar Bhagat, (2) Suraj Kumar Bhagat, (3). Ratan Bhagat @ Navratan Bhagat @ Ratan Jaiswal and (4) Kuldeep Kumar Bhagat. Further submitted that on the perusal of injury report which was filed by I.O. in this case is simple in nature, however the charge sheet has been submitted in this case U/s- 307 of IPC. Further submitted that the charge has been framed on 28.09.2022 U/s- 143, 148, 341/149, 323/149, 325/149, 307/149, 332/149, 333/149, 353/149, 186/149, 120B of the Indian Penal Code against the four accused. Further submitted that on the perusal of the para - 15 of the case diary it would be evident that the CCTV was recovered but it was not functional and as such nothing could be known. It was submitted that it is not known who was	Contd....

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	Contd..P/4 21/12/2022	the owner of the CCTV. Further submitted the injury of victim i.e. Kaushal Kumar has been stated to be simple in nature. The Learned Additional P.P. vehemently opposes the prayer for bail of the petitioner. It was submitted that witnesses mentioned in the case diary have supported the case of prosecution. Heard both sides, perused the record including case diary and materials available on record. From the perusal of record, it transpires that in this case charge has been framed on 28.09.2022 after hearing. Constable Suman Tudu has received lacerated wound over chest and complain of chest pain and bodyache. Constable Eliyazar has abrasion over nose-1/4”x1/4” and he has complain of chest pain. Constable Kaushal Jha abrasion on left hand. For offence u/s 307 IPC, intention is important factor and injury is not that much important for its determination. After framing of the charge not a single witness has been examined. Section 216 of the Criminal Procedure Code, 1973 envisages that a Court can change or alter the charge if there is a defect or something is left out. The test is that it must be founded on material available on record. It can be on basis of complaint or FIR or accompanying documents or	Contd....

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	Contd..P/5 21/12/2022	material brought on record during course of trial as well. The most significant fact is that if court has not framed a charge despite material on record, it has jurisdiction to add a charge. The principle that has to be taken care of is that the charge so framed is in accord with materials produced before court or if subsequent evidence comes on record. The learned counsel was unable to show as to why the charge be altered. I do not find the need to alter the charge at this stage. The petitioners are trying to linger the case by filing this petition although there is no occasion for alteration of charge. Accordingly the prayer of alteration of charge filed u/s 216 of the Cr.P.C. is hereby rejected. This Misc. Criminal Application is disposed off. (Dictated) Sd/- (Manoj Chandra Jha) A.J.C.-III, Ranchi	