

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36935 of 2014

Arising out of PS.Case No. -83 Year- 2014 Thana -RAHUI District- NALANDA
(BIHARSHARIFF)

=====

1. Upendra Pandey son of late Raghunandan Pandey
2. Deepak Pandey, Son of Upendra Pandey
Both are resident of Sonsa, P.S.- Rahui, District- Nalanda.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha, Advocate.

For the Opposite Party/s: Mr. Dinesh Singh (App)

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 09-04-2015

Heard learned counsel for the parties as with regard to the prayer for anticipatory bail when the petitioners are facing allegation of offence under Sections 341, 323, 308, 504/34 of the Indian Penal Code.

Learned counsel for the petitioners has submitted that the petitioners have clean antecedent and that the said incident has taken place on account of a dispute of drain between the parties. He has further submitted that the alleged injuries have been ascribed by use of Bhala blow against the petitioner no. 2 is also not at all substantiated because as per the injury report of the four persons , injuries have been found to be simple in nature caused by hard and blunt substances. He has further submitted that the petitioner no. 1 is the father of the petitioner no. 2, who is an old person, has been unnecessarily roped in this case along with his

wife also participating in the assault.

This Court, on perusal of the materials on record, would for the present find some sort of justification in defence at least in the case of the petitioner no. 1, who is also an aged old man and has got no criminal antecedent, but then the petitioner no. 2, Deepak Pandey, will not be entitled for privilege of anticipatory bail inasmuch as he is said to have caused injuries on as many as two persons and the injuries have also been found both on the persons of the informant and his daughter Guriya Devi.

In that view of the matter, while this Court would reject the prayer for anticipatory bail of the petitioner no. 2, Deepak Pandey, but then, if the petitioner no. 1, Upendra Pandey, surrenders before the court below within a period of four weeks from today, he shall be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount to the satisfaction of the learned Judicial Magistrate, 1st Class, Nalanda at Biharsharif in connection with Rahui P.S. Case No. 83 of 2014 subject to the following conditions:

- (i) That both the bailors will be close family relatives of the petitioner no. 1, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the court if there is any change in the address of the

petitioner no. 1.

(ii) That the affidavit shall clearly state that the petitioner no.1 is not accused in any other case and if he is, he shall not be released on bail.

(iii) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner no. 1 is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of his bail on the ground of misuse.

(iv) That the petitioner no. 1 will be well represented on each and every date in course of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

It is, also made clear that in the event, the petitioner no. 2 Deepak Pandey will surrender, his prayer for regular bail shall be considered on its own merits without being prejudiced anything said in this order.

With the aforesaid observation and direction this application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

U			
---	--	--	--