

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16305 of 2019

Arising Out of PS. Case No.-19 Year-2019 Thana- KUCHAIKOTE District- Gopalganj

1. Parmatma Pathak, Son of Late Rameshwar Pathak, Resident of Village-Baghauch Tola, Briti, P.S-Kuchaikote, District-Gopalganj.
2. Ankit Kumar Pathak, Son of Parmatma Pathak, Resident of Village-Baghauch Tola, Briti, P.S-Kuchaikote, District-Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Narayan Sinha Mr. Rajendra Kumar Dubey Mr. Lakshman Lal Pandey
For the Informant	:	Mr. Naresh Prasad Mr. Vyas Kumar Mishra
For the State	:	Mr. A. L. Pandit, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 11-07-2019 Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State.

Petitioners apprehend their arrest in connection with Kuchaikot P.S. Case No.19 of 2019 for the offence punishable under Sections 341, 323, 324, 307, 34 of the Indian Penal Code and later on Section 302 of I.P.C. was added.

The allegation against these petitioners in the First Information report is that petitioners along with other co-accused persons assaulted the informant, his wife and his father. There is specific allegation against petitioner No.1 in the First Information Report that he assaulted son of the informant, namely, Sujit Pathak, with iron rod near his ear and also the informant and petitioner No.2



assaulted the wife of the informant with Farsa on her head.

Learned senior counsel, Mr. S.N.P. Sinha, appearing for the petitioners submits that both the parties are agnates and there is previous land dispute between them. The allegation against the petitioner No.1 is of assaulting the informant and his son and from perusal of the injury report, Annexure '3' of the informant and injury report of son of the informant, Sujit Pathak, it would be evident that injuries caused to them are minor, simple in nature caused by hard and blunt object whereas the allegation against petitioner No.2 is of assaulting the wife of the informant on her head with Farsa but from perusal of Annexure '2' which is injury report of the wife of the informant, it would appear that injury caused on the person of the wife of the informant near the fore head caused by hard blunt object having lacerated wound 2 cm x $\frac{1}{2}$ cm x $\frac{1}{4}$ cm.

Learned senior counsel further submits that statement of the informant in the First Information Report is not corroborated by the injury report inasmuch the allegation against petitioner No.2 is of assaulting the wife of the informant with Farsa whereas the doctor has opined the injury caused by hard and blunt object.

Learned counsel appearing for informant as well as State vehemently opposed the prayer for bail and submits that the



petitioners along with others have committed serious offence and one of the persons namely, Kanhiya Pathak received serious injury causing his death during the course of treatment. Learned counsel for the informant further submits that in this case process under Section 82 was issued, therefore, in view of the judgment reported in **(2012)8 SCC 730**, the petitioners do not deserve the privilege of anticipatory bail.

After having heard learned counsel for the parties and perusal of the materials on record, it appears that there was previous land dispute between the parties and the petitioners have got no criminal antecedent. It further transpires that the allegation against these petitioners is causing injury to the informant, his son and his wife with iron rod and further from perusal of the First Information Report, it appears that injury caused to informant and his son by petitioner No.1 are simple in nature and further the allegation against petitioner No.2 of causing injury upon the head of wife of the informant with Farsa is not corroborated by the injury report inasmuch from perusal of Annexure '2' the injuries on the person of wife of the informant is caused by hard and blunt object. Further submission of learned counsel for the State as well as the informant that process under Section 82 and 83 has been issued against the petitioners on 15.03.2019 and bail application on behalf of the



petitioner was filed before this court on 14.03.2019, i.e., prior to issuance of process under Section 82 and 83 against the petitioners. In my opinion, the submission advanced by learned counsel for the informant as well as State is not tenable in the facts and circumstances of this case, as such, I am inclined to grant anticipatory bail to the petitioner.

Accordingly, both the petitioners, named above, are directed to surrender before the learned Court below within a period of four weeks and in the event of surrender by them, they shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-VII, Gopalganj, subject to the condition as mentioned under Section 438 (2) of Cr.P.C.

This is subject to the condition that the petitioners shall present themselves before the police/ Court, as the case may be, as and when required and in the event of failure of their part to appear before the Court on two consecutive occasions, their bail bond shall be liable to be cancelled.

(Anil Kumar Sinha, J)

sanjeev/-

U		T	
---	--	---	--

