

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42057 of 2019

Arising Out of PS. Case No.-48 Year-2016 Thana- PHENHARA District- East Champaran

1. Binda Rai S/o Khedu Rai, Resident of Vill.- Gaiwandhi Pokhariya Tola, P.S.- Phenhara, Dist.- East Champaran.
2. Lalan Rai S/o Binda Rai, Resident of Vill.- Gaiwandhi Pokhariya Tola, P.S.- Phenhara, Dist.- East Champaran.
3. Kaushal Rai @ Koshal Rai S/o Binda Rai, Resident of Vill.- Gaiwandhi Pokhariya Tola, P.S.- Phenhara, Dist.- East Champaran.
4. Kanhai Rai S/O Late Ramji Rai Resident of Vill.- Katkuian, P.S.- Chiraiya, Dist.- East Champaran.

... .. Petitioners

Versus

The State of Bihar.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Manish Kumar Singh No.2, Advocate
For the Opposite Party/s : Mr.Nand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 29-08-2019 Heard learned counsel for the petitioners and learned
APP for State.

The petitioners in this case are seeking anticipatory bail in connection with Trial No. 2249 of 2018 arising out of Phenhara P.S. Case No. 48 of 2016/G.R. Case No. 3146 of 2016 registered for the offences punishable under Sections 341, 147, 148, 149, 324, 307, 379, 447, 504, 506 of the Indian Penal Code though cognizance has been taken for offences under Sections 147, 148, 341, 323, 325, 447, 504, 307 and 506/149 of the Indian Penal Code.



Learned counsel for the petitioners submits that there is a case and counter case and that the learned Sessions Judge while rejecting the application for anticipatory bail of the petitioners has noticed that save and except one injury all other injuries found on the body of Ramayodhya Rai and Sharma Rai were simple in nature. One of the injuries of Sharma Rai was found to be grievous. It is submitted that police had submitted a charge sheet under bailable Sections of the Indian Penal Code but differing with the police report the learned Magistrate has taken cognizance for the offence under Section 307 I.P.C. as well. Learned counsel submits that so far as petitioner nos. 3 and 4 are concerned there are general and omnibus allegation against them not attributing to any of the injuries.

Learned A.P.P. for the State is present and after going through the records submits that so far as the petitioner nos. 3 and 4 are concerned, there seems to be general and omnibus allegation, however, petitioner no. 1 and 2 have got specific allegations against them of causing assault to Ramayodhya Rai and Sharma Rai to sustain five and three injuries respectively on their body.

Having heard learned counsel for the petitioners and the learned A.P.P. for the State, this Court is of the considered



opinion that there being the specific allegation against the petitioner nos. 1 and 2, they do not deserve the privilege of anticipatory bail, their prayer for anticipatory bail is thus rejected. So far as petitioner nos. 3 and 4 are concerned, since there are general and omnibus allegation against them and no specific injury is attributed to assault, let the petitioner nos. 3 and 4 in the event of their arrest or surrender within a period of four weeks from today, be enlarged on bail on furnishing of bail bonds of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M. XII, Motihari, East Champaran in connection with Trial No. 2249 of 2018 arising out of Phenara P.S. Case No. 48 of 2016/G.R. Case No. 3146 of 2016, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;



(iii) a condition that the person shall not leave India without the previous permission of the Court.

Learned counsel for the petitioners submits that petitioner no. 1 is a complete blind person, in case it is so if he surrenders within four weeks from today and pray for regular bail before the court below, the court below will examine the said contention and shall consider his prayer for bail, if the submission is found correct, on the same day.

(Rajeev Ranjan Prasad, J)

vats/ved

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

