

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55334 of 2019

Arising Out of PS. Case No.-140 Year-2019 Thana- BHORE District- Gopalganj

1. Awadhesh Tiwari, Son of Ram Kishun Tiwari, Resident of Village - Khajuria, P.S. - Bhore, District - Gopalganj (Bihar).
2. Ajay Tiwary, Son of Shesh Nath Tiwari, Resident of Village - Khajuria, P.S. - Bhore, District - Gopalganj (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rakesh Kumar, Advocate

For the Opposite Party/s : Mr.Uday Chand Prasad, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 20-11-2019 Heard learned counsel for the petitioners and the learned counsel appearing on behalf of the State. Learned counsel for the informant is also present.

The petitioners are apprehending their arrest in connection with Bhore P.S. Case No.140 of 2019 for allegedly having committed the offence under Sections 147, 148, 149, 341, 323, 307, 302, 504, 506 and 324 of the Indian Penal Code.

Learned counsel for the petitioners submits that the allegation against petitioner no.1 Awadhesh Tiwari is that he had attacked the grandfather of the informant with *Farsa* on his head, which had made him unconscious. It is further



submitted that the other co-accused persons had also attacked the informant and he had also become unconscious and when he regained consciousness, it was discovered that his grandfather had died. Learned counsel for the petitioners submits that the post-mortem report does not indicate any such injury as has been alleged in the F.I.R.

Learned counsel for the informant, however, submits that the allegation against petitioner no.1 is of having attacked the grandfather of the informant with *Farsa* and therefore, he may not be granted the privilege of anticipatory bail.

Diary in the present case was called for, which has since been received.

Learned counsel appearing on behalf of the State after perusal of the case diary submits that there is an incised wound on the scalp as is evident from the post-mortem report and that the same matches with the allegation which has been stated in the F.I.R. It is thus submitted that petitioner no.1 may not be granted the privilege of anticipatory bail.

Learned counsel for the petitioners, however, submits that there is an alibi of petitioner no.1 that he is said to be on duty on the concerned date. He therefore submits



that the entire allegation against the petitioner no.1 is far-fetched and he may be extended the privilege of anticipatory bail.

Learned counsel for the informant, however, submits that such an alibi can be considered only at the time of trial and not at this stage and in any view of the matter, there being a specific allegation of petitioner no.1 having attacked the deceased with *Farsa*, the prayer for anticipatory bail is not to be considered as it was the petitioner no.1 which was virtually led to the death of the grandfather of the informant.

Having considered the entire facts and circumstances of the case and the nature of allegations made against petitioner no.1 Awadhesh Tiwari, I am not inclined to grant anticipatory bail to him. It is, accordingly, rejected.

So far as petitioner no.2 Ajay Tiwary, is concerned, it does not appear to be a clear case with regard to his having inflicted any blow and the allegation against him are general and omnibus in nature.

Considering the aforementioned facts and circumstances, let the petitioner No.2 Ajay Tiwary, above named, in the event of his arrest or surrender before the court



below within a period of four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj, in connection with Bhore P.S. Case No.140 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anjana Mishra, J)

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