

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6320 of 2020**

Arising Out of PS. Case No.-129 Year-2019 Thana- KUSHESHWARASTHAN District-
Darbhanga

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1. BAIDYANATH CHAUPAL Son of Mahendra Chaupal Resident of Village -
Brahmpur, Post - Sumbhadowri, P.S. - Kusheshwar Asthan, District -
Darbhanga
 2. Siyawar Chaupal Son of Mahendra Chaupal Resident of Village - Brahmpur,
Post - Sumbhadowri, P.S. - Kusheshwar Asthan, District - Darbhanga
- Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Pankaj Kumar Jha, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 09-07-2020 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

Petitioners, in the present case, are seeking
anticipatory bail in connection with Kusheshwar Asthan P.S.
Case No. 129/2019 registered for the offences under Sections
341, 323, 302, 379, 504/34 of the Indian Penal Code, pending in
the court of learned Judicial Magistrate, 1st Class, Biraul,
District – Darbhanga, corresponding to G.R. No. 349/2019.

Learned counsel for the petitioners submits that in the
First Information Report there are vague allegations that all the
accused persons came on the shop of the informant and
thereafter at the instance of petitioner no. 1 who was abusing the



father of the informant, the petitioner no. 2 assaulted the father of the informant by the measurement rod. It is alleged that petitioner no. 1 had also given hand and fist blow.

It is submitted that after investigation police has submitted a final form but the learned court below differed with the police report and upon consideration of the materials on the record and the injury on the posterior of the head said to have been caused by hard and blunt force, the learned court below has taken cognizance for the offences under Sections 323, 341, 302, 504/34 of the Indian Penal Code against the accused persons including these petitioners. It is submitted that in course of investigation only the family members of the informant have supported the allegations.

Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioners. It is submitted that the learned court below has found a prima-facie case against these petitioners and once the court has taken cognizance and found a prima-facie case on the basis of the materials on the record, considering the gravity of the offences alleged the petitioners do not deserve privilege of anticipatory bail.

Having regard to the facts and circumstances of the case wherein it appears from the materials on the record that



these accused persons had gone to the shop of the informant and there on demand of money the scuffle seems to have taken place in which it is alleged that petitioner no. 1 abused the father of the informant and ordered to kill him whereupon petitioner no. 2 had assaulted the father of the informant by the measurement rod and the post-mortem report shows injury on the head from a hard and blunt force and the learned court below has taken a prima facie view of the matter finding sufficient material to proceed against these petitioners, this court is not inclined to grant privilege of anticipatory bail to the petitioners.

Prayer for anticipatory bail of the petitioners is, thus, refused.

In case petitioners surrender and pray for regular bail in the court below within a period of four weeks from today, the same shall be considered on the basis of the materials available on the record and the court below shall not be prejudiced by the orders of this Court.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

