

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6335 of 2020**

Arising Out of PS. Case No.-297 Year-2019 Thana- SARAI District- Vaishali

1. UMESH THAKUR S/o Late Rajendra Thakur R/o village- Prabodhni Narendra, P.S.- Sarai, District- Vaishali
2. Sujeet Thakur @ Sujeet Kumar Thakur S/o Sonelal Thakur R/o village- Prabodhni Narendra, P.S.- Sarai, District- Vaishali
3. Santosh Thakur @ Santosh Kumar Thakur S/o Nand Kishore Thakur R/o village- Prabodhi Narendra, P.S.- Sarai, District- Vaishali

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sudhanshu Shekhar,Advocate

For the Opposite Party/s : Mr.Md. Shakir Ahmad,APP

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

4 23-09-2020 Heard learned counsel for the petitioner and Mr. Shakir Ahmad, learned APP for the State.

The petitioners in the present case are seeking pre-arrest bail in connection with Sarai P.S. Case No. 297 of 2019 registered for the offences punishable under Sections 341, 323, 324, 325, 307, 447, 354, 379, 504/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that both the parties are co-sharers and there is an admitted land dispute between the parties. It is alleged in the Fardhbyan of the informant that on 05.08.2019 during evening time Sujeet Thakur (petitioner no. 2) entered in the house of the informant and was doing some obscene activities with the daughter-in-law of the



informant whereupon the informant objected to, petitioner no. 2 pushed her and fled away. It is then alleged that when the informant went to the house of petitioner no. 2 to complain against him, all the four named accused started assaulting her. In the meantime, her husband also came there and he was also assaulted. The informant alleged that her both hands have been fractured and the whole body has suffered bruises due to assault by lathi. It is also alleged that in course of assault Umesh Thakur (petitioner no. 1) had taken away her *jitiya* from her neck. Learned counsel submits that this case is a counter blast of the case lodged by one Lal Babu Das which is Annexure '2' to the present application. From Annexure '2' it will appear that there are allegations against the informant's side of the present case that they had assaulted Lal Babu Das and had also assaulted Santosh Thakur (petitioner no. 3). It is alleged in Annexure '2' that petitioner no. 3 had suffered injuries due to the said assault.

Learned counsel submits that Annexure '2' is based on the Fardhbyan recorded by police on 06.08.2019 whereas the present case has been lodged on the basis of a Fardhbyan recorded on 09.08.2019, therefore, the present case is only by way of defence, otherwise petitioner nos. 1 and 2 have got two



criminal antecedents whereas petitioner no. 3 has one antecedent which is a case lodged by the present informant.

On the other hand, learned APP for the State has opposed the prayer for anticipatory bail of the petitioners. It is submitted that the doctors have noticed as many as eight injuries on the body of the informant. Injury nos. 1, 2 and 3 have been caused by sharp cut substance whereas 4 to 8 have been caused by hard blunt substance. Husband of the informant has also suffered about five injuries on his body and son of the informant has suffered one injury.

Learned APP, therefore, submits that the allegations against the petitioners are substantiated from the materials present in the case diary.

Having heard learned counsel for the petitioners and learned APP for the State and after going through the injury reports and the allegations made in the First Information Report (Annexure '1'), this Court noticed that the main allegations are against petitioner no. 1 and participation of petitioner no. 2 has also been mentioned, however so far as petitioner no. 3 is concerned, though his name is mentioned there in the FIR but the counter version of the FIR (Annexure '2') shows that there are allegation that he was assaulted by the informant side and



had suffered injuries.

In this circumstance while this Court is not inclined to grant privilege of anticipatory bail to petitioner nos. 1 and 2 and their prayer for anticipatory bail is refused, this Court is inclined to grant anticipatory bail to petitioner no. 3.

In case petitioner nos. 1 and 2 surrender and pray for regular bail in the court below within a period of four weeks from today, their prayer for regular bail shall be considered on their own merit without being prejudiced by the present order of this Court.

So far as petitioner no. 3 is concerned, let the petitioner no. 3 in the event of his arrest or surrender within four weeks from today, be released on bail on furnishing of bail bond of Rs. 25,000/- (Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XIII-cum-Sub-Judge-XIV, Hajipur, Vaishali in connection with Sarai P.S. Case No. 297 of 2019, subject to the conditions 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.

This application is partly allowed.

(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'.

