

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17314 of 2020**

Arising Out of PS. Case No.-472 Year-2019 Thana- BAHERA District- Darbhanga

1. SUMAN JHA @ SUMAN KUMAR JHA Son of Late Kamla Kant Jha Resident of Village - Nawada, P.S.- Bahera, District- Darbhanga (Bihar)
2. Nabin Jha @ Nabin Kumar Jha Son of Late Laxmi Kant Jha Resident of Village - Nawada, P.S.- Bahera, District- Darbhanga (Bihar)
3. Ram Bilash Jha Son of Late Laxmi Kant Jha Resident of Village - Nawada, P.S.- Bahera, District- Darbhanga (Bihar)
4. Sunil Jha @ Sunil Kumar Jha Son of Late Kamla Kant Jha Resident of Village - Nawada, P.S.- Bahera, District- Darbhanga (Bihar)
5. Madhab Jha @ Madhab Kumar Jha Son of Mahakant Jha Resident of Village - Nawada, P.S.- Bahera, District- Darbhanga (Bihar)

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Kaushal Kumar Jha, Advocate
For the State	:	Mr.Manoj Kumar, APP
For the Informant	:	Mr. Uday Shankar Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 03-09-2020 Heard learned counsel for the petitioners, Mr. Manoj Kumar, learned A.P.P. for the State and Mr. Uday Shankar Choudhary, learned counsel for the informant.

Petitioners, in the present case, are seeking pre-arrest bail in connection with Bahera P.S. Case No. 472/2019 registered for the offence under Sections 341, 323, 354(B), 504, 506 and 34 of the Indian Penal Code.

Learned counsel for the petitioners submits that these petitioners and the informant are close agnates and they are



having some land disputes for which Section 107 proceeding has also been initiated and earlier the father of this informant has lodged one Bahera P.S. Case No. 11/2019 dated 05.01.2019 as stated in paragraph '3' of the application.

It is submitted that the allegations against petitioner no. 1 & 2 are that they had been following the informant while she was going to college with bad intentions and was pressurizing her to do bad things. When this occurrence took place on 11.11.2019 the informant informed this to her parents. It is then alleged that on 11.11.2019 at about 11:00 clock at night petitioner no. 1 & 2 came in the house of the informant in drunken state and both started to tamper and attempted to do bad things with the informant. On hulla raised by her the parents and brothers awoke and protected the informant. It is then alleged that the informant caught hold of the petitioner no. 1 but with the help of other petitioners who reached there petitioner no. 1 was also set at free.

Learned counsel submits that the whole allegations are false and baseless and that in course of investigation mother of the informant has made her statement in which she has not stated that petitioner no. 1 & 2 had entered inside the house of the informant. It is further submitted that no independent



witness has come forward to support the allegations.

Learned A.P.P. for the State as well as learned counsel for the informant have jointly opposed the prayer for anticipatory bail of the petitioners.

It is submitted on behalf of the informant that these petitioners are not close agnates rather they are co-villagers only. Submission is that in the nature of the allegations the petitioners do not deserve privilege of anticipatory bail.

Having regard to the facts and circumstances of the case taking note of the allegations made in the First Information Report this Court finds that the thrust of the allegations are against petitioner no. 1 & 2 against whom it is alleged that they had entered in the house of the informant. Learned counsel for the petitioners has though drawn attention of this court towards statements made in paragraph 16 & 17 wherein the father and mother of the informant have not stated that these petitioners had entered inside the house of the informant, considering the nature of allegations made by the informant, this Court is not inclined to grant privilege of anticipatory bail to petitioner no. 1 & 2.

Prayer for anticipatory bail of petitioner no. 1 & 2 is, thus, refused.



In case, however, they 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 its own merit keeping in view the entire facts and circumstances and prayer for bail shall not be refused only because this Court has not granted them anticipatory bail. The court below shall also consider that during investigation petitioner no. 2 had cooperated and had been allowed benefit of Section 41A Cr.P.C.

So far as petitioner no. 3, 4 & 5 are concerned, taking note of the allegations against them and the kind of enmity which the parties have, it may be a case of over implication, and, thus, the court is inclined to grant the benefit of anticipatory bail to petitioner no. 3, 4 & 5, let the petitioner no. 3, 4 & 5 above-named in the event of their arrest or surrender within four weeks from today, be released on bail on furnishing of bail bonds of Rs. 25,000/- (Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Benipur, District – Darbhanga, in connection with Bahera P.S. Case No. 472/2019, 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)

Rajeev/-

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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'.

