

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28575 of 2020

Arising Out of PS. Case No.-175 Year-2019 Thana- KUSHESHWARASTHAN District-
Darbhanga

-
1. JAY PRAKASH MUKHIYA, Son of Mohit Mukhiya, Resident of Village-
Hathauri, P.S.- Kusheshwar Asthan, District- Darbhanga.
 2. Kailash Mukhiya, Son of Mohit Mukhiya, Resident of Village- Hathauri,
P.S.- Kusheshwar Asthan, District- Darbhanga.
 3. Mohit Mukhiya, Son of Late Mishri Mukhiya, Resident of Village- Hathauri,
P.S.- Kusheshwar Asthan, District- Darbhanga.
 4. Ram Ashish Mukhiya, Son of Late Dularchandra Mukhiya, Resident of
Village- Hathauri, P.S.- Kusheshwar Asthan, District- Darbhanga.
 5. Ganesh Mukhiya, Son of Late Upendra Mukhiya, Resident of Village-
Hathauri, P.S.- Kusheshwar Asthan, District- Darbhanga.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Mishra, Advocate
For the Opposite Party/s : Ms. Sharda Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 27-01-2021 Heard learned counsel for the petitioners and Ms. Sharda
Kumari, learned A.P.P. for the State.

The petitioners, in the present case, are seeking pre-arrest
bail in connection with Kusheshwar Asthan P.S. Case No. 175 of
2019 registered for the offence under Sections 147, 148, 149, 341,
323, 324, 307, 506 and 379 of the Indian Penal Code.

Learned counsel for the petitioners submits that the
informant in his ferdbeyan alleged that on the alleged date of
occurrence the accused persons lashed with weapons came on his
land and started constructing house and on protest they entered into a
scuffle. It is alleged that Jay Prakash Mukhiya assaulted the



informant on his head by farsa, Kailash Mukhiya and Mohit Mukhiya assaulted to the uncle of the informant by rod, Ram Ashish Mukhiya and Upendra Mukhiya assaulted to the brother of the informant by lathi.

Learned counsel for the petitioners submits that petitioners are innocent and have committed no offence, there is counter version of the alleged occurrence for which F.I.R. being Kusheshwar Asthan P.S. Case 166 of 2019 has been lodged by the petitioners' side. It is further submitted that both sides indulged in causing assault to each other.

Learned A.P.P. for State has opposed the prayer for anticipatory bail of the petitioners.

Having regard to the facts and circumstances of the case wherein a case and counter case of the alleged occurrence which took place on 05.07.2019, both the parties seem to have indulged in causing assault to each other, the accused of the counter case being Kusheshwar Asthan P.S. Case No. 166 of 2019 against whom there were allegations of causing assault have been granted privilege of anticipatory bail by a learned coordinate Bench of this Court, after finding that the injuries caused by them on the petitioners' side were simple in nature, let the petitioner nos. 1, 4 and 5 above named in the event of their arrest or surrender within a period of four weeks from today in connection with Kusheshwar Asthan P.S. Case No. 175 of 2019 be released on bail on furnishing of bail bonds of Rs.



25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Darbhanga, 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.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

So far as petitioner nos. 2 and 3 are concerned, the allegations against them is that they had assaulted the uncle of the informant namely, Harishchandra Pandit whose injury has been found to be grievous in nature and it is on the vital part of the body, considering this aspect of the matter this Court is not inclined to



grant privilege of anticipatory bail to petitioner nos. 2 and 3. Their prayer for anticipatory bail is refused.

In case petitioner nos. 2 and 3 surrender and pray for regular bail before the learned 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 order of this Court.

The observation with regard to surrender in the court below within a period of four weeks shall not be construed as granting any interim protection to the petitioners for the aforesaid period.

The application stands partly allowed.

(Rajeev Ranjan Prasad, J)

Rishi/-

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

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'.

