

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11828 of 2021

Arising Out of PS. Case No.-344 Year-2020 Thana- KHAIRA District- Saran

1. Yogendra Singh, aged about 39 years, Gender-Male, Son of late Radha Singh, Resident of Village - Chitroli, P.S.- Khaira, Dist.- Saran.
2. Mahesh Singh, aged about 48 years, Gender-Male, Son of Late Radha Singh, Resident of Village - Chitroli, P.S.- Khaira, Dist.- Saran.
3. Rita Devi, aged about 36 years, Gender-Female, W/o Yogendra Singh, Resident of Village - Chitroli, P.S.- Khaira, Dist.- Saran.
4. Baby Devi, aged about 45 years, Gender-Female, W/o Mahesh Singh, Resident of Village - Chitroli, P.S.- Khaira, Dist.- Saran.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Basant Kumar Singh, Advocate
For the Opposite Party : Mr. Nand Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 08-02-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading 'For Orders' under the orders of Hon'ble the Chief Justice.

Heard learned counsel for the petitioners and learned A.P.P. for the State.

Learned counsel for the petitioners is directed to remove the defects, as pointed out by the office, within a period of four weeks after restoration of normalcy.

Learned counsel for the petitioners seeks permission



to withdraw the present anticipatory bail application filed on behalf of petitioner nos. 1, 2 and 3 as they have been taken into judicial custody in connection with Khaira P.S. Case No. 344 of 2020, pending in the court of learned Additional Chief Judicial Magistrate-Ist, Saran at Chapra.

Permission is accorded.

Accordingly, the present anticipatory bail application filed on behalf of petitioner nos. 1, 2 and 3 is dismissed as withdrawn.

Now, the petitioner no. 4 is apprehending her arrest in connection with Khaira P.S. Case No. 344 of 2020 for the offence registered under Sections 341, 323, 324, 325, 307 and 504/34 of the I.P.C.

The prosecution story, in brief, is that on 21.11.2020 when the brother of the informant was pegging his cow at his door, then co-accused Yogendra Singh and Mahesh Singh forbade him on which he replied that he has two third share at the door and why he would not peg his cow there. On this, both the co-accused started abusing and assaulting him. On alarm, when the informant and his son Manish Kumar reached there, then they saw that the petitioner no. 4 and other co-accused persons are assaulting his brother Rajesh Singh. When they tried



to pacify, then co-accused Mahesh Singh assaulted his son with *Lathi* and co-accused Yogendra Singh tried to gave *Daab* blow on the neck of the informant but in a bit to ward off the blow he sustained injury on his finger. The lady accused persons were assaulting all of them with *Lathi*. Prior to this occurrence, the petitioner no. 4 and other accused persons had assaulted them in the month of August of this year.

It has been submitted by learned counsel for the petitioner no. 4 that she has got no criminal antecedent. She has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against her. There is case and counter case between the parties. Free fight is alleged to have taken place between the parties. Injury on the accused side has not been explained by the prosecution. The prosecution has not come with clean hands. From perusal of the order of the learned Sessions Court, it appears that the Investigating Officer tried to obtain the injury report of the informant and his son who are alleged to have been assaulted by the petitioner no. 4 but the said injury report of the above referred victims could not be obtained for one reason or other and the same has not been brought on record. It cannot be ascertained in absence of any such injury report that the nature



of injury caused to the said victims are grievous or simple in nature. That creates doubt upon the entire prosecution case specially in respect of the petitioner no. 4. In absence of the injury report, the manner of occurrence could not be proved.

On behalf of the learned counsel for the State, it has been submitted that the petitioner no. 4 is named in the F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances, the petitioner no. 4, above named, (except petitioner no. 1 Yogendra Singh, petitioner no. 2 Mahesh Singh and petitioner no. 3 Rita Devi) in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on her personal bonds to the satisfaction of the learned Additional Chief Judicial Magistrate-Ist, Saran at Chapra, in connection with Khaira P.S. Case No.



344 of 2020, subject to the conditions as laid down under
Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner no. 4
shall furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand)
with two sureties of the like amount each within a period of
eight weeks to the satisfaction of the court concerned in
connection with the aforesaid case.

(Sudhir Singh, J)

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