

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12189 of 2021**

Arising Out of PS. Case No.-214 Year-2020 Thana- DURAULI District- Siwan

1. Laxuman Bhagat @ Laxman Bhagat, aged about 50 years (M), S/o- Late Sheo Bachan Bhagat, R/o of Village- Krishnapali, P.S.- Darauli, District- Siwan.
2. Kanhaiya Bhagat @ Kanhaiya Kumar Kishwaha, aged about 24 years (M), S/o- Laxuman Bhagat @ Laxman Bhagat, R/o of Village- Krishnapali, P.S.- Darauli, District- Siwan.
3. Rajrani Devi, aged about 48 years (F), W/o- Laxuman Bhagat @ Laxman Bhagat, R/o of Village- Krishnapali, P.S.- Darauli, District- Siwan.
4. Ajay Bhagat @ Ajay Kushwaha, aged about 22 years (M), S/o- Laxuman Bhagat @ Laxman Bhagat, R/o of Village- Krishnapali, P.S.- Darauli, District- Siwan.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Ajay Kumar Pandey, Advocate
For the Opposite Party : Mr. Zainul Abedin, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 03-02-2022 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 through Virtual mode.

The petitioners are apprehending their arrest in connection with Darauli P.S. Case No. 214 of 2020 for the offence registered under Sections 341, 323, 324, 307, 379, 447,



504 and 506/34 of the I.P.C.

The prosecution case, in brief, is that on 22.09.2020 at about 9.00 P.M., the informant and her family members were sitting at her *Darwaza*, at the same time, her villagers Laxman Bhagat, Ajay Bhagat, Rajrani Devi alongwith Kanhaiya Bhagat (all petitioners) holding the *Danda* came to her *Darwaza* and started abusing her, when Lalan Bhagat the husband of the informant, protested, on the order of Laxman Bhagat (petitioner no. 1), Kanhaiya Bhagat (petitioner no. 2) gave a *sword* blow upon the head of Lalan Bhagat that caused injury on his head and Lalan Bhagat fell down and blood started oozing out from his head. It is further alleged that Laxman Bhagat (petitioner no. 1) gave *Lathi* blow to Lalan Bhagat, when the informant tried to rescue, then Rajrani Devi (petitioner no. 3) and Ajay Bhagat (petitioner no. 4) came and caught hold her hairs and pushed on the ground and assaulted the informant by leg, fist and *Danda*. It is further alleged that Rajrani Devi (petitioner no. 3) and Kanhaiya Bhagat (petitioner no. 2) took away the gold *Mangalsutra* worth of Rs. 5,000/- from the neck of the informant when neighbouring people rushed there they brought to the Darauli P.H.C. For treatment. It is further alleged that accused persons were having touch with unsocial elements of



the society.

It has been submitted by learned counsel for the petitioners that the petitioners have got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioners. As per prosecution case, the petitioner no. 1 and petitioner no. 2 are alleged to have assaulted the victim, namely, Lalan Bhagat. As per injury report of Lalan Bhagat, there is single injury and the said injury is grievous in nature. Hence, allegation made in the F.I.R. does not corroborate with the findings of the injury report of Lalan Bhagat. As far as petitioner nos. 3 and 4 are concerned, petitioner no. 3 is a lady and they are said to have assaulted the informant. Nature of injury of the informant is said to be simple. Hence, no offence under Section 307 of the I.P.C. is made out. Rests of the offences are triable by the Magistrate.

On behalf of the learned counsel for the State, it has been submitted that the petitioners are named in the F.I.R. and there is specific allegation of assault alleged against petitioner nos. 1 and 2 and nature of injury of Lalan Bhagat is said to be grievous.

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, as far as petitioner nos. 1 and 2 are concerned, I am not inclined to grant anticipatory bail to them. The same is rejected in connection with Darauli P.S. Case No. 214 of 2020, pending in the court of learned J.M. Ist Class, Siwan.

If the petitioner nos. 1 and 2 surrender in the learned court below and pray for regular bail the same shall be considered by the learned court below on its own merit without being prejudiced by this order of the Court.

As far as petitioner nos. 3 and 4 are concerned (except petitioner nos. 1 Laxuman Bhagat @ Laxman Bhagat and petitioner no. 2 Kanhaiya Bhagat @ Kanhaiya Kumar Kushwaha) 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 their personal bonds to the



satisfaction of the learned J.M. Ist Class Siwan, in connection with Darauli P.S. Case No. 214 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 nos. 3 and 4 shall furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand) each 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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