

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19589 of 2022

Arising Out of PS. Case No.-513 Year-2020 Thana- NAUTAN District- West Champaran

1. NIRAJ KUMAR Son of Rajeshwar Prasad Resident of Village - Gamhariya, P.S.- Nautan (Jagdishpur), Distt.- West Champaran.
2. Rajeshwar Prasad Son of Gopal Prasad Resident of Village - Gamhariya, P.S.- Nautan (Jagdishpur), Distt.- West Champaran.
3. Harilal Prasad Son of Late Bhabhikhan Prasad Resident of Village - Gamhariya, P.S.- Nautan (Jagdishpur), Distt.- West Champaran.
4. Binod Prasad Son of Harilal Prasad Resident of Village - Gamhariya, P.S.- Nautan (Jagdishpur), Distt.- West Champaran.
5. Krishna Prasad Son of Gopal Prasad Resident of Village - Gamhariya, P.S.- Nautan (Jagdishpur), Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate
For the Opposite Party/s : Mr. Addl. Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 31-08-2022 Heard learned counsel for the petitioners, State and informant.

The petitioners apprehend their arrest in a Nautan (Jagdishpur) P.S. Case No. 513 of 2020 registered for the offence under Sections 147, 148, 149, 341, 323, 504, 324, 379 of the Indian Penal Code.

As per the prosecution case, petitioner no. 1 gave Dab blow on the head of informant, as a result of which, he sustained grievous injury. So far as others petitioners no. 3 & 5 are



concerned, they are alleged to have caught hold of the informant and petitioner no. 2 is alleged to have thrashed the informant with legs and fists and also snatched gold chain from the neck of informant, whereas, petitioner no. 4 assaulted with lathi due to which he sustained injury.

It is submitted on behalf of petitioners that in the F.I.R., though there is allegation of assault against petitioners no. 1 & 4 by Dab and lathi, but as per injury report, only one injury has been found on the body of informant. So far as petitioners no. 2, 3 & 5 are concerned, there is no specific allegation of overt act. There is delay of 6 days in lodging the F.I.R. and there is no plausible explanation of delay. It is further submitted that petitioners were granted bail, vide order dated 30.01.2021 by the court below til submission of chargesheet and petitioners have never misused the privilege of bail so granted to them. Thereafter, on 27.01.2021, police submitted chargesheet under Sections 341, 323, 324, 307, 504, 34 of the I.P.C. and later on, cognizance was taken under Sections 341, 323, 324, 307, 504, 34 of the I.P.C. on 22.03.2021.

However, learned counsel for the informant vehemently opposed the bail petition and submitted that once chargesheet has been submitted and cognizance has been taken,



anticipatory bail is not maintainable. In support of his submission, he has relied upon a judgment of this Court, reported in **2004 (3) PLJR 491 (Mahendra Prasad Singh vs. State of Bihar)**.

Learned counsel for the petitioners submits that the case cited by learned counsel for the informant (*supra*) is not applicable in this case, since the Hon'ble Court has held in the said case that a person, who is already on bail, shall not be denied such privilege unless there is any allegations of misuse etc.

Considering the aforesaid facts and circumstances as well as the fact that there is delay in lodging the F.I.R. and there is no allegation of tampering with the evidence against these petitioners during pendency of the case as also nature of accusation, the prayer for anticipatory bail of petitioners is allowed.

Let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Nautan (Jagdishpur) P.S. Case



No. 513 of 2020, subject to condition as laid down under
Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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