

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44689 of 2023

Arising Out of PS. Case No.-183 Year-2023 Thana- LAKHISARAI District- Lakhisarai

1. Kailu Yadav, Son of Late Ramjee Yadav, Resident of Village- Paschim Tola, Dharmrajchak Ward No. 06, Ps And Distt- Lakhisarai
2. Jito Yadav, Son of Late Ramjee Yadav, Resident of Village- Paschim Tola, Dharmrajchak Ward No. 06, P.S and Distt- Lakhisarai
3. Ranjeet Yadav, Son of Late Ramjee Yadav, Resident of Village- Paschim Tola, Dharmrajchak Ward No. 06, P.S And Distt- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar, Advocate
For the Opposite Party/s : Ms. Anita Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 04-08-2023 Heard learned Counsel for the petitioners and learned
APP for the State.

2. The petitioners are apprehending arrest in connection with Lakhisarai P.S. Case No. 183/2023 registered on 09.03.2023 for the offences punishable under Sections 147, 149, 323, 325, 337, 385, 307, 379, 427, 504 and 506 of the Indian Penal Code.

3. As per the prosecution, the FIR has been lodged against 10 named accused persons, including the petitioners to the effect that all the accused persons have entered into the house of the informant and started abusing his mother in the



name of witchcraft. The accused persons also assaulted the mother of the informant by alleging that their buffalo became ill on seeing her and in the course of treatment of the buffalo, ₹60,000/- has been spent. The accused persons demanded ₹60,000/- from the mother of the informant. On being refused to pay the said amount, they forcibly started taking the buffalo of the informant. On protest being made, petitioner no.1 alleged to have pulled the mother of the informant whereas co-accused, Lachho Devi started assaulting her by catching her hair. When the informant and his father came to rescue her, then petitioner no.2, Jito Yadav along with other co-accused assaulted the informant. Petitioner No.3, Ranjeet Yadav alleged to have assaulted on the head of the informant with a brick causing head injury.

3. It is submitted by learned counsel for the petitioners that the petitioners are innocent and have committed no offence. The petitioners and the informant both are an adjacent neighbour and the relation between them is not good. It is further submitted that there is a case and counter case between the parties. Petitioner No.3 has filed a Complaint Case No. 131 of 2023 on 16.03.2023 against the informant's side and due to old rivalry, the present case has been lodged against the



petitioners. A statement has been made in paragraph no.3 of the petition that the petitioners are accused in one more criminal case. It is further submitted that offence under Section 307 of the I.P.C. is not made out. There is no specific allegation levelled against the petitioners in the FIR under Section 379 of the I.P.C. and the offences under Sections 307 and 379 are bailable.

4. From the content of the FIR, it transpires to this Court that one of the accused has abused the informant's mother addressing her as *daain*, but there is no offence added under the provisions of Prevention of Witch (Daain) Practices Act, 1999. The word 'Daain' is an offence under law and this offence is cognizable and non-bailable in nature.

4. Learned APP for the State opposes the prayer for bail of the petitioners and submits that the word 'Daain' is an offence.

5. In the facts and circumstances of the case, let petitioner nos. 2 and 3 above named be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 6 weeks from today, on furnishing bail bond of ₹30000/- (thirty thousand) each with two sureties of the like amount each to the satisfaction of the CJM, Lakhisarai in



connection with Lakhisarai P.S. Case No.183 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

6. So far as petitioner no.1, namely, Kailu Yadav, is concerned, this Court is not inclined to grant his privilege of anticipatory bail. Accordingly, the prayer for anticipatory bail of petitioner no.1 is rejected.

7. However, the prayer for regular bail of petitioner no.1 shall be considered by the learned Court below, preferably, on the same day, if he surrenders within a period of four weeks from today.

(Dr. Anshuman, J)

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