

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61769 of 2023

Arising Out of PS. Case No.-12 Year-2023 Thana- BALIA BELON District- Katihar

1. Gulam Hussain Son Of Late Abdul Jabbar Resident Of Sabanpur, Ps-Balrampur, Dist- Katihar
2. Md. Ashraf Son Of Md. Gulam Hussain Resident Of Sabanpur, Ps-Balrampur, Dist- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Advocate

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

For the informant : Mr. Mazher Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 2 11-10-2023 1. Heard learned Counsel for the petitioners, learned Additional Public Prosecutor for the State and learned counsel for the informant.
2. This application, for grant of anticipatory bail, arises out of Baliya Belon Police Station Case No. 12 of 2023, disclosing offences under Section 307 and other allied sections of the Indian Penal Code.
3. The prosecution story, in brief, is that all the accused persons named in the F.I.R. including the petitioners herein arrived at the door of the informant, assaulted him by fists, slaps and also with weapons. It has further been alleged that during course of assault, petitioner no. 2 inflicted knife blow upon the informant near his forehead and petitioner no. 1 snatched Rs. 20,000/- from the pocket of the informant.



4. Learned Counsel for the petitioners submits that petitioners have falsely been implicated in this case due to previous land dispute. He further submits that the allegation of snatching a sum of Rs. 20,000/- upon petitioner no. 1 is ornamental in nature and injuries caused to the informant have been found to be simple in nature, by the Doctor. He next submits that there is delay in lodging of the First Information Report, inasmuch as the occurrence has taken place on 21.01.2023 but the FIR has been lodged after a delay of two days i.e. on 23.01.2023. He also submits that earlier, a case had been filed by the petitioner's side against the informant and others and due to which, this false case has been lodged by the informant.

5. Learned Additional Public Prosecutor opposed the prayer for bail and submits that there is specific allegation of inflicting knife/ dagger blow upon the informant by petitioner no. 2 and it appears from perusal of injury report, annexed as Annexure-2, that the doctor has found all other injuries to be simple in nature except the one near the forehead of the informant, which is attributable to petitioner no. 2. He next submits that delay in lodging of F.I.R. has already been explained, inasmuch as the informant was undergoing treatment



at P.H.C. Balrampur.

6. Regard being had to the submissions made on behalf of the parties, taking into account the materials available on record and the fact that both the parties are co-villagers having land dispute as also there is previous enmity between them, I am inclined to grant the privilege of anticipatory bail to the petitioner no. 1.

7. So far as the petitioner no. 2 is concerned, specific allegation of causing knife injury upon the forehead of the informant is levelled against him, which is not simple in nature. Thus, I am not inclined to grant anticipatory bail to the petitioner no. 2. Accordingly, the petitioner no. 2 is directed to surrender before the concerned learned court below and seek regular bail, within a period of four weeks from today. Let the concerned District Court shall consider the same without being prejudiced by the fact that anticipatory bail of petitioner no. 2 has been rejected by this Court.

8. This application is, partly allowed.

9. Let petitioner no. 1, Gulam Hussain, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount



each to the satisfaction of learned Chief Judicial Magistrate,
Katihar, in connection with Baliya Balon Police Station Case
No. 12 of 2023, subject to the condition laid down under
Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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