

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55731 of 2023

Arising Out of PS. Case No.-138 Year-2022 Thana- DARPA District- East Champaran

1. Asheshar Sahani Son of Bira Sahani
 2. Budhan Sahani Son of Asheshwar Sahani
 3. Santu Sahani Son of Asheshwar Sahani
 4. Badami Devi Wife of Budhan Sahani
 5. Lalita Devi Wife of Santu Sahani
- all are the Resident Of Village - Bagahi, P.S. - Darpa, District - East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 08-11-2023 Vide order dated 30.08.2023 the petitioner no.2,3,4 & 5 have been granted privilege of anticipatory bail and the case was adjourned to ascertain the injury report of the injured person, namely, Manif Sahni and for this purpose the case diary and the injury report was called for.

2. Heard Mr. Sanjay Kumar, learned counsel for the petitioner no.1, Mr. Md. Mushtaque Alam, learned Additional Public Prosecutor for the State as well as learned counsel for the informant.

3. The petitioner is apprehending his arrest in connection with Darpa P.S. Case No.138 of 2022, F.I.R. dated 11.11.2022 registered for the offence punishable under Sections



341, 323, 447, 354(A), 379, 308, 504/34 of the Indian Penal Code.

4. The prosecution case, in brief is that on 09.11.2022 at about 4:00 pm informant Manif Sahani was in house. In the meantime Asheshar Sahant, Budhan Sahani, Santu Sahani, Bedami Devi & Lalita Devi came in at his door and started abusing. When he opposed, accused persons came with lathi, fatta, iron rod and assaulted on his head due to which he sustained injury and blood started oozing out. Due to assault when he fell down on the ground, Budhan Sahani assaulted on his stomach and legs with lathi. On hulla his mother came to rescue him then Bedami Devi caught her hair and pushed her on the ground and also assaulted with fists and slaps. Santu Sahani tore clothes of his mother due to which her modesty was outraged. During assault Budhan Sahani snatched gold chain from his neck. Accused persons assaulted them due to which they sustained injuries. They got their treatment with the help of villagers in PHC, Adapur. Accordingly, the FIR.

5. Learned counsel for the petitioner submit that petitioner has clean antecedent and has falsely been implicated in the present case. As per the allegation alleged in the FIR, the petitioner has assaulted the informant through iron rod and he



has received the injury but the injury report of the informant suggest that the injuries are simple in nature caused by the hard and blunt substance.

6. Learned counsel for the informant as well as learned APP for the State, on the other hand vehemently opposed the prayer for anticipatory bail of the petitioner stating that there is specific allegation that the petitioner has assaulted to the informant, but fairly submits that the injury report suggests that the injuries are simple in nature.

7. Considering the aforesaid facts, let the petitioner no.1, namely, Asheshar Sahani, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Raxaul at Motihari in connection with Darpa P.S. Case No.138 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(i) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court



and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bonds shall be cancelled by the Court below.

(ii) If the petitioner tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of anticipatory bail.

(iii) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for cancellation of anticipatory bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

Prakash Narayan

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