

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59534 of 2023

Arising Out of PS. Case No.-94 Year-2023 Thana- DAUDPUR District- Saran

1. Nirnay Upadhyay @ Chunnu S/O Bishudha Nand Upadhyay Resident Of Garahiteer, Ward No. 14, P.O. And PS. Bhagwan Bazar, Chapra, Dist. Saran, Bihar-841301
2. Pranay Upadhyay @ Pranay Kumar Upadhyay S/O Bishudha Nand Upadhyay Resident Of Garahiteer, Ward No. 14, P.O. And PS. Bhagwan Bazar, Chapra, Dist. Saran, Bihar-841301
3. Nirbhay Upadhyay @ Nirbhay Kumar Upadhyay S/O Bishudha Nand Upadhyay Resident Of Garahiteer, Ward No. 14, P.O. and PS. Bhagwan Bazar, Chapra, Dist. Saran, Bihar-841301
4. Bishudha Nand Upadhyay @ Vishudha Nand Upadhyay S/O Late Raj Narayan Upadhyay Resident Of Garahiteer, Ward No. 14, P.O. and PS. Bhagwan Bazar, Chapra, Dist. Saran, Bihar-841301

... .. Petitioners

Versus

1. The State of Bihar
2. Amrendra Kumar Upadhyay S/O Wagishdutt Upadhyay R/O Village-Bareja, P.O.- Bareja PS. Daudpur, Dist. Saran at Chapra

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Praveen Kumar, Advocate
For the State	:	Mr. Satyendra Prasad, APP
For the O.P. No. 2	:	Mr. Chandra Mohan Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 18-10-2023 Heard learned counsel for the petitioners, learned counsel for the O.P. No. 2 and learned APP for the State.

2. The petitioners in the present case are seeking pre-arrest bail in connection with Daudpur P.S. Case No. 94 of 2023 registered for the offences punishable under Sections 147, 341, 323, 379, 307, 504, 354 and 506 of the Indian Penal Code. They have got no criminal antecedent.

3. As per the prosecution story, on 05.03.2023 at about 11:00 A.M., these petitioners came at the house of the informant and



petitioner no. 4 ordered other accused persons to kill the informant and his brother namely Surendra Upadhyay, thereafter, petitioner nos. 2 and 3 assaulted them as a result of which informant's two teeth fell down. In the meantime, when the son and wife of the informant came there to save them, petitioner no. 1 assaulted the wife of the informant and snatched her gold mangalsutra and earrings. It is further alleged that petitioner nos. 2 and 3 assaulted the son of the informant with lathi/danda due to which he sustained head injuries.

4. Learned counsel for the petitioners submits that as regards the alleged occurrence, there is a case and counter case between the parties. In fact, the case lodged by the petitioners' side is prior in time. The parties are co-sharers and there was a compromise between the parties in a Title Partition Suit No. 472 of 2011.

5. Learned counsel further submits that it is the informant's side who had attacked first on the petitioners' side. It seems that both the sides scuffled and in the alleged occurrence, both the sides have suffered injuries.

6. Learned counsel for the O.P. No. 2 has though opposed the prayer for anticipatory bail of the petitioners but it is not disputed that both the parties are co-sharers and they seem to have fought over the sale proceeds of the land which were earlier sworn by them.

7. Considering the facts and circumstances of the case, the nature of the dispute and the relationship between the parties in which the present occurrence has taken place, two different versions



of the story in the case and counter case, the fact that both the parties have suffered injuries and these petitioners have no criminal antecedent, this Court directs that in case of their arrest or surrender within a period of six weeks from today, the petitioners above named be released on bail in connection with Daudpur P.S. Case No. 94 of 2023 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Chapra, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

8. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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.

9. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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