

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58033 of 2023

Arising Out of PS. Case No.-114 Year-2023 Thana- TATARPUR District- Bhagalpur

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1. SHEKHAR MANDAL @ CHANDRA SHEKHAR MANDAL @ CHANDRA SHEKHAR KUMAR, Male, aged about 34 years, S/O LATE SANTLAL MANDAL
 2. NARAD MANDAL @ RAVI KANT KUMAR, Male, aged about 30 years, S/O LATE SANTLAL MANDAL
- Both R/O MOHALLA - PARVATTI, P.S. - TATARPUR (UNIVERSITY), District- Bhagalpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate
For the Opposite Party/s : Mr. Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 11-10-2023 Heard Mr. Praveen Kumar, learned counsel appearing on behalf of the petitioners and Mr. Madhura Nand Jha, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Tatarpur (University) P.S. Case No. 114 of 2023 dated 08.04.2023 registered for the offence(s) punishable under Sections 341, 323, 324, 354(B), 379, 504, 506, 34 of the Indian Penal Code.

3. As per FIR, allegation against the petitioners relates to assaulting the husband of the informant and when the informant tried to save her husband, the three accused including



the petitioners also assaulted her and misbehaved by tearing her *blouse*.

4. Learned counsel appearing on behalf of the petitioners submitted that due to previous enmity with respect to similar nature of allegations, Kotwali (University) P.S. Case No.636 of 2012 and Kotwali (University) No.638 of 2012 have been lodged by the family members of the informant against the petitioners. Learned counsel admits that the dispute between the petitioners and the informant relates with respect to eviction of a shop, in which the petitioners are running Ice cream Parlor. Learned counsel further made reference to the observation made in the impugned order dated 30.06.2023 that husband of the informant has entered into a compromise with the accused persons. Learned counsel further submits that the petitioners have also given instruction that they are ready to resolve the dispute in an amicable manner. On these grounds, learned counsel submits that the petitioners deserve to be released on bail. It is further submitted by learned counsel that the parties have remedy under the provision of Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail and informs this Court that



specific statement has been made in paragraph no.3 of the bail application that petitioner no.1 has three criminal antecedents, whereas, petitioner no.2 has two criminal antecedents, however, they are on bail in the aforesaid cases and, as such, petitioners do not deserve to be released on bail considering their criminal antecedents.

6. Considering the rival submissions as well as perusal of allegation made in the FIR, it appears that though in the FIR the informant has made specific allegation that the incident took place in front of Ice cream parlor but no specific allegation has been made that the dispute relates with respect to the the said ice cream parlor for which the informant and her husband have earlier tried to evict the petitioners from running the shop which is located in their premises and also the fact that the parties have remedy before appropriate forum, where they can resolve their dispute relating to the shop in question, this Court finds it proper that the petitioners deserve to be released on **provisional bail** to arrive at an amicable settlement within a period of six months.

7. The petitioners, above named, are directed to be released on **provisional bail**, in the event of their surrender before the Court below within a period of four weeks from



today, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M., VII, Bhagalpur in connection with Tatarpur (University) P.S. Case No. 114 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. with a further condition that after settlement of the dispute, a joint affidavit will be filed by the parties before the court below. The provisional bail shall remain in effect till the period of six months. It is expected that the parties may dissolve the dispute within the aforesaid period by an amicable settlement.

8. In case, the district court finds that the parties have settled their dispute, the provisional bail granted to the petitioners shall be made absolute by the court below itself.

9. In case of failure, parties have remedy before the appropriate forum in accordance with law.

10. With the aforesaid observation/direction, the application stands disposed off.

(Purnendu Singh, J)

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