

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65098 of 2023

Arising Out of PS. Case No.-135 Year-2023 Thana- MADHAURAH District- Saran

1. KUNAL KUMAR @ KUNAL PRASAD YADAV SON OF RAJENDRA RAY VILLAGE- SILHAURI, PS- MARHAURAH, DIST- SARAN AT CHAPRA
2. NISHA DEVI @ NISHA KUMARI WIFE OF KUNAL KUMAR @ KUNAL PRASAD YADAV VILLAGE- SILHAURI, PS- MARHAURAH, DIST- SARAN AT CHAPRA

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Jeetendra Narayan
		Mr.Anshu Dhar Sharma
For the Opposite Party/s	:	Mr. Anuj Kumar Srivastava

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 06-11-2023 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioner are apprehending their arrest in connection with Marhaurah P.S. Case No. 135 of 2023 registered for the offences punishable under Sections 341, 323, 324, 307, 354, 379, 504 read with Section 34 of the Indian Penal Code.

3. As per prosecution case, petitioner no. 1, Kunal Kumar, is said to have assaulted informant's son by means of knife on his head and neck as a result of which he sustained injuries and bleeding started. It is further alleged that petitioner no. 2, Nisha Devi, is said to have assaulted informant's wife by means of danda and also snatched her mangalsutra.



4. Learned counsel for the petitioners submits that petitioners are innocent and have committed no offence as alleged in the FIR and they have falsely been implicated in this case. Petitioners bears no criminal antecedent. He further submits that petitioner no. 1 has earlier filed a case against the informant of the present case as annexed in Annexure-2 of the bail petition and the present case is nothing but the counterblast of the said case. He further submits that previous enmity cannot be ruled out in order to implicate the petitioners falsely in the present case. Learned counsel further submits that annexure-3 of the bail petition indicates that injury report of Dilip Kumar which is grievous in nature caused by sharp cutting instrument is against petitioner no. 1 and there is no act of assault attributable against petitioner no. 2 so far as injury report of Dilip Kumar is concerned and allegation of assaulting informant's wife by means of danda is against petitioner no. 2 and same is not supported by injury report as orally submitted.

5. The learned A.P.P. for the State vehemently opposes the prayer for anticipatory bail of the petitioners and submits that there is specific over-act of assault against petitioner no. 1 Kunal Kumar by means of knife upon the head and neck of informant's son and the same is grievous in nature as corroborated by the injury report of the victim.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent of petitioner no. 2, petitioner



no. 2 being a lady, argument advanced on behalf of both sides and also taking into consideration the material available on record, the petitioner no. 2, Nisha Devi @ Nisha Kumari above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail 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 Chief Judicial Magistrate, Saran at Chapra in connection with Marhaurah P.S. Case No. 135 of 2023 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

So far as, anticipatory bail prayer of petitioner no. 1 Kunal Kumar, is concerned, I am not inclined to grant anticipatory bail to petitioner no. 1 as there is specific allegation of assault upon Dilip Kumar by means of knife and the said fact is corroborated by injury report. Accordingly, prayer for anticipatory bail of petitioner no.1, Kunal Kumar stands rejected.

(Alok Kumar Pandey, J)

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