

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65647 of 2023

Arising Out of PS. Case No.-322 Year-2018 Thana- DAUDNAGAR District- Aurangabad

1. Sudama Paswan, S/O Ram Naresh Paswan @ Ram Naresh Ram, R/O Village- Kanap, P.S- Daudnagar, Distt.- Aurangabad.
2. Gautam Paswan, S/O Ram Naresh Paswan @ Ram Naresh Ram R/O Village- Kanap, P.S- Daudnagar, Distt.- Aurangabad.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Tribhuwan Narayan, Advocate
For the State	:	Mr. Nand Kishore Prasad, APP
For the Informant	:	Mr. Binod Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-10-2023 Heard learned counsel for the petitioners, learned counsel for the informant and learned APP for the State.

2. The petitioners in the present case are seeking pre-arrest bail in connection with Daudnagar P.S. Case No. 322 of 2018 registered for the offences punishable under Sections 341, 323, 379, 307, 504, 120(B) of the Indian Penal Code. They have got no criminal antecedent.

3. As per the prosecution story, on 12.09.2018 at 01:00 P.M., the informant was persuaded to come to his sasural and when he reached there, he was assaulted by Sudama Paswan (brother-in-law), Gautam Paswan (brother-in-law), Kaushal Paswan (brother-in-law) by iron rod on his head. It is alleged that Sudama Paswan (petitioner no. 1) and Gautam Paswan (petitioner



no. 2) assaulted the informant by lathi causing fracture to his hands and petitioner no. 1 also snatched his mobile phone.

4. Learned counsel for the petitioners submits that the petitioners are the brothers-in-law of the informant and the present case has been lodged by the informant against his wife and his brothers-in-law because of the matrimonial discord.

5. Learned counsel submits that throughout the investigation, the petitioners have cooperated and they were given the benefit of Section 41-A of Cr.P.C. by the I.O. Later on, a chargesheet has been filed under bailable sections but learned Magistrate differed with the police report and has taken cognizance of the offences under various sections of the IPC including Sections 307 and 379 IPC which are non-bailable sections.

6. Learned counsel for the informant has opposed this application, as according to him, these petitioners had called the informant to discuss an amicable resolution of the matrimonial dispute but the informant was assaulted by the petitioners causing fracture to his hand. Learned counsel is, however, unable to produce any injury report.

7. Having regard to the facts and circumstances of the case, the fact that these petitioners have participated in course of investigation and were chargesheeted under bailable sections but



differing with the police report, learned Magistrate has taken cognizance of the offences under non-bailable sections as well, this Court is of the considered opinion that the petitioners deserve privilege of anticipatory bail.

8. Let 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 Daudnagar P.S. Case No. 322 of 2018 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 S.D.J.M., Daudnagar, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

9. 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.

10. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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