

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71311 of 2023

Arising Out of PS. Case No.-372 Year-2023 Thana- SONEPUR District- Saran

1.

Ganesh Rai, Son of Anandi Rai, Resident of Village- Fakrabad, P.S.- Sonepur, Distt- Saran.
2.

Mahesh Rai, Son of Anandi Rai, Resident of Village- Fakrabad P.S.- Sonepur, Distt- Saran.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Saket Anand, Advocate
For the State	:	Mr. Shyameshwar Dayal, APP
For the Informant	:	Mr. Harish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

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29-11-2023

Heard learned counsel for the petitioners and learned counsel for the informant as also learned APP for the State.

2. The petitioners in the present case are seeking pre-arrest bail in connection with Sonepur P.S. Case No. 372 of 2023 registered for the offences punishable under Sections 341, 323, 324, 307, 504 read with 34 of the Indian Penal Code and Section 27 of the Arms Act. Petitioner no. 1 has got one criminal antecedent whereas petitioner no. 2 has got two criminal antecedents.

3. At the outset, Mr. Harish Kumar, learned counsel representing the informant submits that so far as petitioner no. 1, namely, Ganesh Rai is concerned, he has already been arrested, therefore, this application on his behalf has become infructuous.

4. Taking note of this statement, this Court proceeds to consider the prayer for anticipatory bail of petitioner no. 2, Mahesh

Rai only.

5. As per the prosecution story, on 20.05.2023 at 04:00 P.M., accused Anandi Rai, Ganesh Rai (petitioner no. 1), Mahesh Rai (petitioner no. 2) and accused Naresh Rai came at the door of the brother of the informant and started abusing him. When the brother of the informant forbade them to abuse, Ganesh Rai, petitioner no. 2 and Mahesh Rai, petitioner no. 2 started assaulting him with a '*hasua*'. Thereafter, when he tried to escape, co-accused Anandi Rai ordered to kill him whereupon Naresh Rai fired upon the brother of the informant and he fell down.

6. Learned counsel for the petitioners submits that on perusal of the first information report, it would appear that the co-accused Anandi Rai had ordered the another co-accused Naresh Rai to kill the brother of the informant whereupon said Naresh Rai had fired upon the brother of the informant. It is submitted that so far as the role of Mahesh Rai (petitioner no. 2) is concerned, there is only allegation that he along with petitioner no. 1 had been assaulting the brother of the informant by a '*hasua*'. It is submitted that there is no specific allegation against petitioner no. 2 of causing any injury.

7. On the other hand, learned counsel for the informant submits that on a reading of the FIR itself it would appear that both the petitioners are facing Sonapur P.S. Case No. 154 of 2009 registered under Section 307 of the Indian Penal Code. It is submitted that the said case is on the verge of final argument and the brother of

the informant had deposed as a witness in the said case. It is, thus, submitted that the brother of the informant was assaulted in an attempt to murder and the accused persons had been threatening the informant's brother to kill, if he would not allow closure of Sonapur P.S. Case No. 154 of 2009.

8. Having regard to the submissions noted hereinabove and taking note of the fact that in this case, the brother of the informant was a witness in the earlier case and as per the allegations, he was being threatened to kill, if he would not close the said case, the allegations being serious in nature, this Court is not inclined to grant privilege of anticipatory bail to Mahesh Rai (petitioner no. 2).

9. The prayer for anticipatory bail of petitioner no. 2 is, thus, refused.

10. In case petitioner no. 2 surrenders and prays for regular in the learned court below within four weeks from today, his prayer for regular bail shall be considered on its own merit without being prejudice by the order of this Court.

11. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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