

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78493 of 2023

Arising Out of PS. Case No.-15 Year-2023 Thana- BHIMPUR District- Supaul

1. RAJIV KUMAR SAH @ RAJEEV KUMAR SAH Son of Shobha Chand Sah Resident of Village - belaganj, P.S.- Bhimpur, District - Supaul.
2. Jai Prakash Kumar Sah @ Jai Prakash Sah Son of Shobha Chand Sah Resident of Village - belaganj, P.S.- Bhimpur, District - Supaul.
3. Shobha Chand Sah Son of Late Laxmi Sah Resident of Village - belaganj, P.S.- Bhimpur, District - Supaul.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Patla Kumari, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 04-12-2023 Heard learned Counsel for the petitioners and
learned APP for the State.

2. The petitioners apprehend their arrest in connection with Bhimpur P.S. Case No. 15 of 2023 for the offence registered under sections 341, 342, 324, 307, 354 (B), 379, 504, 506 and 34 of the Indian Penal Code lodged on 25.01.2023 by the informant Shiv Chandra Sah.

3. As per the prosecution story, the allegation is that the accused persons armed variously came and after abusing the informant's side allegation is that Rajiv Kumar Sah assaulted the informant on his head with a sword causing injury/bleeding. Further allegation is against petitioner no. 2 (Jai Prakash Kumar



Sah @ Jai Prakash Sah) is of using *farsa* which caused injury just above his right eye. When the informant's wife came to rescue Rajiv Sah again assaulted her. Further, allegation against petitioner no. 3 (Shobha Chand Sah) and Rahul is/are of using iron rod to assault Kalawati Devi and Sabita Devi, the informant's wife and sister-in-law respectively. Accordingly, the FIR.

4. Learned Counsel for the petitioners submit that a bare perusal of the FIR would show that the same has been exaggerated inasmuch as entire family members including the female inmates have been dragged in. Further, the injuries on the informant has been found to be simple in nature.

5. Learned APP for the State, on the other hand, submits that Injury Report does not make it clear that the same has been found to be simple in nature. On the contrary, it has been incorporated that sharp cut injury is there near the eye which cannot be simple in nature.

6. Considering the submissions put forward, so far as the petitioner no. 1 (Rajiv Kumar Sah @ Rajeev Kumar Sah) and petitioner no. 2 (Jai Prakash Kumar Sah @ Jai Prakash Sah) are concerned, this Court is not inclined to extend them privilege of anticipatory bail, which is accordingly rejected.



7. However, if the petitioner no. 1 (Rajiv Kumar Sah @ Rajeev Kumar Sah) and petitioner no. 2 (Jai Prakash Kumar Sah@ Jai Prakash Sah) surrenders within a period of four weeks from today, the Court concerned shall take up the matter and dispose of the same without being prejudiced by any of the observation made therein preferably on the same day.

8. So far as the petitioner no. 3 (Shobha Chand Sah) is concerned, though allegation of assault is also on him, considering the fact that he is 62 years of age, do not have criminal antecedent and will ultimately facing the trial, this Court is inclined to extend him privilege of anticipatory bail.

9. Let the petitioner no. 3 (Shobha Chand Sah) in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., Supaul in connection with Bhimpur P.S. Case No. 15 of 2023 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner no. 3 (Shobha Chand Sah), who shall provide official document to show his *bona fide*;



(ii) the petitioner no. 3 (Shobha Chand Sah) shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner no. 3 (Shobha Chand Sah) shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner no. 3 (Shobha Chand Sah) shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

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