

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1251 of 2023

Arising Out of PS. Case No.-394 Year-2022 Thana- KORHA District- Katihar

1. PRAKASH YADAV @ PRAKASH KUMAR YADAV Son of Late Fatkan Yadav Resident of Village- Mahinathpur, P.S.- Korha, District- Katihar
2. MILAN YADAV @ MILAN KUMAR YADAV Son of Prakash Yadav Resident of Village- Mahinathpur, P.S.- Korha, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Rajendra Prasad Sah, Advocate
For the Informant	:	Mr. Md. Musowir, Advocate
For the Opposite Party/s	:	Mr. Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 13-07-2023 Heard Mr. N.K. Agrawal, learned senior counsel for the petitioner assisted by Mr. Rajendra Prasad Sah, Advocate, learned counsel for the informant and learned Additional Public Prosecutor for the State.

2. Petitioners seek bail, who are in custody since 04.09.2022 in connection with Korha P.S. Case No. 394 of 2022, F.I.R. dated 03.09.2022 for the offences punishable under Sections 341, 323, 498A, 307, 325, 324, 506, 34 of the Indian Penal Code.

3. According to prosecution case, in brief is that on 02.09.2022 at about 9:30 P.M. after dinner the informant was going to her bed in the meantime her husband started abusing



her mother and sister's son for non-fulfillment of demand of dowry. On protest, the accused persons lashed with sticks, farsa sword and calling bad names came there and brutally assaulted her, her mother and her sister's son sustained grievous injuries. Accused namely, Milan Yadav tried to outrage informant's modesty. On hulla, neighbors came and saved their life thereafter villagers sent the injured persons to hospital on ambulance.

4. Learned counsel for the petitioners submits that petitioners are innocent and they have falsely been implicated in the present case. He further submits that both the parties are relative and the petitioners are in-laws of the informant and due to sudden provocation the present occurrence has taken place. He further submits that bare perusal of F.I.R. it appears that there is no repetition on the person of the injured and the injury report of the injured person suggest that the injury received by the mother of the informant is grievous in nature and the injury received by the Bambam Yadav simple in nature caused by hard and blunt substance. He further submits that they have no intention to kill the family member of the informant and the police after investigation submitted the charge sheet against these petitioners and the petitioners are in judicial custody since



04.09.2022.

5. Vide order dated 20.06.2023 a report was called for with regard to the present stage of trial. Report dated 26.06.2023 of the learned trial court reveals that charge has been framed against the petitioner but till date no witnesses have been examined.

6. The learned counsel for the informant and learned Additional Public Prosecutor for the State have vehemently opposed the prayer for bail of the petitioners and submits that there is direct and specific allegation against these petitioners that they have assaulted the family members of the informant.

7. Learned senior counsel for the further submits that in view of the report of the learned trial court that the trial is not concluded in near future and the petitioners are in custody since 04.09.2022 and the husband of the informant is in judicial custody.

8. Considering the aforesaid facts and circumstances, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Miss/Mrs. Kiran Kumari, Judicial Magistrate, 1st Class, Katihar in connection with Korha P.S. Case No. 394 of 2022,



subject to the following conditions:-

1. Learned court below shall verify that whether the husband of the informant is in jail or not before releasing the petitioners.

2. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

3. If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

4. 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.

(Rajesh Kumar Verma, J)

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