

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.13753 of 2023**

Arising Out of PS. Case No.-413 Year-2022 Thana- KHUSRUPUR District- Patna

1. ASLAM EKBAL SARWAR @ ASLAM EKBAL S/O Late Abdul Rashid (wrongly written son of Md. Hassan Raza in the F.I.R) R/O Fasad Ka Maidan, P.S- Chouk, District- Patna
2. Asif Ekbal S/O Aslam Ekbal Sarwar R/O Fasad Ka Maidan, P.S- Chouk, District- Patna
3. Arif Ekbal S/O Aslam Ekbal Sarwar R/O Fasad Ka Maidan, P.S- Chouk, District- Patna
4. Rehan Ekbal S/O Aslam Ekbal Sarwar R/O Fasad Ka Maidan, P.S- Chouk, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Raj Nandan Prasad, Adv

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

9      22-04-2024              1.    Heard learned counsel for the petitioners and learned A.P.P. for the State, Mr. Chandra Bhushan Prasad.

2.    The petitioners apprehend their arrest in connection with Khusrupur PS Case No. 413 of 2022, for the offences punishable under Sections 341, 323, 324, 307, 379, 504 and 34 of the Indian Penal Code.

3.    The court completely fails to appreciate that as to why the learned A.C.J.M. 1<sup>st</sup> , Patna City has not furnished his explanation in terms of the order dated 5-4-2024. The order dated 5-4-2024 was communicated to the learned District Judge,



Patna also to ensure that the learned ACJM 1<sup>st</sup> , Patna City furnishes his explanation along with injury report.

4. Today when the case is taken up, though the injury report is on record but then the explanation of the learned ACJM 1<sup>st</sup> , Patna City has not been furnished which gives an impression to the Court that the learned ACJM 1<sup>st</sup> , Patna City does not take orders of this Court seriously, nor the learned District Judge, Patna is interested in ensuring that the explanation is furnished.

5. List this case on 29-4-2024.

6. The Registry shall ensure that a copy of the order is served personally on the learned District Judge, Patna and the learned ACJM 1<sup>st</sup>, Patna City.

7. The Court expects that explanation of the learned ACJM 1<sup>st</sup> , Patna shall be received prior to 29-4-2024. The Court, for the present, is not directing the learned District Judge to furnish his explanation when the office report dated 6-4-2024 clearly records that the order dated 5-4-2024 was communicated to the court below.

8. As far as merit of the case is concerned, there is an allegation against the accused persons of assaulting the injured by knife causing injuries to 3 injured. It has been submitted on



behalf of the petitioners that although there is allegation of assault by knife against the accused persons, but then the allegation of assault is not specific. It is also submitted that the petitioner and the informant are agnates and are having land dispute. It is further submitted that the side of the informant also assaulted the side of the petitioners brutally by iron rod causing injury. It is further submitted that petitioner No. 1 was assaulted so brutally that he was also admitted at NMCH for treatment. It is next submitted that since both sides assaulted each other on account of dispute relating to land, as such privilege of anticipatory bail be granted to the petitioner. It is further submitted that the criminal antecedents which the petitioner Nos. 1 and 3 carry are cases instituted by the side of the informant. It is next submitted that police is not making any endeavour to arrest the side of the informant and they are roaming freely while petitioners are being pressurized by the police to surrender.

9. The learned APP Chandra Bhushan Prasad submits that the allegation of assault may not be specific against the accused persons, but then what is not in dispute rather stands admitted is that the injured was assaulted by knife and informant of the present case was admitted at PMCH, ICU ward, which



amply demonstrates the nature of assault leading to hospitalisation of injured in the ICU of PMCH. It is further submitted that had the accused persons including the petitioner would not have been present at the place of occurrence, then whosoever assaulted the injured by knife would not have felt emboldened to commit the occurrence.

10. Considering the submission made by the learned APP, the court is not inclined to extend the privilege of anticipatory bail to the petitioners.

11. The case has been fixed for 29-4-2024 to be listed under the heading "OFFICE NOTES" only for the purposes of seeking explanation from the learned ACJM 1<sup>st</sup>, Patna City.

(Satyavrat Verma, J)

SUMIT/-

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