

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22954 of 2024

Arising Out of PS. Case No.-247 Year-2019 Thana- GOGRI District- Khagaria

1. Indradeo Sah @ Indradeo Kumar Son of Kailash Sah Resident of vill.-
Rampur, P.S.-Gogri, Distt.-Khagaria, (Bihar)
2. Bipin Yadav @ Bipin Kumar yadav Son of Chhatri Yadav Resident of vill.-
Rampur, P.S.-Gogri, Distt.-Khagaria, (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh, Adv.

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 01-05-2024 Heard learned counsel for the petitioners and
learned A.P.P. for the State.

2. The petitioners apprehend their arrest in connection with Gogri PS case No. 247 of 2019 dated 31-07-2019, instituted for the offence punishable under Sections 341,323, 308 and 379/34 of the Indian Penal Code.

3. The prosecution case in short is that on 30.07.2019 at about 9.25 P.M while the informant was going to his house along with his friend Bambam Patel by motorcycle and when they reached near the *Pachhatra*



Bahiyar bridge, then petitioners and six unknown accused persons assaulted him on his hand by means of bamboo, due to which both became nervous and fell down by the side of the road. It is further alleged that thereafter, they assaulted the informant by bamboo, as a result of which, he sustained injury and they also took Rs. 8100/- from his pocket and snatched gold *Chakti* from his neck. During the course of occurrence, informant identified the petitioners. The informant was taken to Referral Hospital, Gogri for treatment by Rajiv Prakash @ Babloo Ex-Mukhiya.

4. Learned counsel for the petitioners submits that petitioners are innocent and they have been falsely implicated in this case. It is next submitted that police after investigation, submitted final form against the petitioners under sections 341, 323, 504 /34 and differing, with the same the learned court below took cognizance against the petitioners under Sections 341, 323, 308 and 504/34 of the IPC and no reason has been assigned to that effect. It is next submitted that FIR has been lodged against two named person and six unknown persons. There is no specific allegation of assault against the petitioners rather the allegation against the petitioners is general and omnibus. It is submitted that the learned Sessions



Judge- Vth, Khagaria, while rejecting the anticipatory bail of the petitioners in A.B.P. No. 1397 of 2023, vide order dated 29-11-2023, has recorded that only summon has been issued by the learned Court below and there is no apprehension of arrest by the police to the petitioners. Therefore, the anticipatory bail petition is not maintainable. It is further submitted that cognizance has been taken under Section 308 of the I.P.C., which is non-bailable offence. Therefore, the anticipatory bail petition is maintainable. Lastly, it is submitted that the petitioners have no criminal antecedents.

5. Learned A.P.P. for the State has opposed the prayer for bail of the petitioners.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioners within a period of six weeks from today, in connection with Gogri PS case No. 247 of 2019, they shall be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class Khagaria, or appropriate Court below, subject to condition as laid down under Section 438(2) of the Cr.P.C.



7. The application stands allowed.

(Khatim Reza, J)

shyambihari/-

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