

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26484 of 2024

Arising Out of PS. Case No.-963 Year-2023 Thana- GOPALGANJ TOWN District-
Gopalganj

- =====
1. Prabhawati Devi W/o Bharat Manjhi R/o vill - Hatiyapur Ram Naresh Nagar, ward no. 26, P.S. - Gopalganj, Distt.- Gopalganj
 2. Raju Manjhi S/o Mangru Manjhi R/o vill - Hatiyapur Ram Naresh Nagar, ward no. 26, P.S. - Gopalganj, Distt.- Gopalganj
 3. Rohit Manjhi S/o Bharat Manjhi R/o vill - Hatiyapur Ram Naresh Nagar, ward no. 26, P.S. - Gopalganj, Distt.- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Vyas Kumar Mishra, Advocate
For the Opposite Party/s	:	Mr.Md. Ataur Rahman, APP
For the Informant	:	Mr.Kumar Harshvardhan, Advocate
	:	Ms.Abhilasha Jha, Advocate
	:	Mr.Sudhansu Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 18-09-2024 1. Heard learned Counsel for the petitioners and learned APP for the State.
2. This application, for grant of anticipatory bail, arises out of Gopalganj PS case no. 963 of 2023, disclosing offences punishable under Sections 341, 323, 324, 325, 504, 307 of the Indian Penal Code.
3. The prosecution story, as per the First Information Report, is that on 04.12.2023, informant got information that petitioner no. 1 along with four persons were demolishing the pillar of his door. When the informant arrived at the place of



occurrence and made protest, petitioner no. 2 assaulted him by iron rod, due to which, he sustained injury in his left leg. Petitioner no. 1 inflicted farsa blow on the head of informant's son causing head injury and petitioner no. 3 assaulted the informant by means of knife on his head.

4. Learned Counsel for the petitioners submits that there is a land dispute between the parties and counter case has also been lodged, inasmuch as a case has been lodged by the side of the petitioners against the informant's side bearing Gopalganj ST/SC PS case no. 962 of 2023. Learned counsel further submits that 12 dhurs of land was sold by petitioner no. 2 in favour of informant but the informant started making construction upon the land, which was already sold. He next submits that the injury caused to the informant is simple in nature except injury on the non vital part of the body i.e. left leg and the injury caused to the son of the informant is simple in nature except injury no. 3, which is grievous in nature.

5. On the other hand, learned counsel for the informant vehemently opposed the prayer for bail and submits that process under Section 82 Cr.P.C. has been initiated against the petitioners. The injuries caused to the informant and his son are grievous in nature. Informant has sustained fracture upon



upper end of left tibia and son of the informant has sustained grievous injury on his right hand and his teeth was also broken, regarding which, opinion has been reserved by the doctor. Learned counsel further submits that petitioner no. 1 is Home Guard Jawan and also used to work as a domestic helper of District Magistrate, Gopalganj, as such, she was having protection of D.M. and due to which, informant and his son have been attacked. She next submits that informant is a practicing lawyer at Civil Court, Gopalganj and is aged about 60 years and after the incident, he underwent surgery of his leg and was advised 04 months' bed rest by the doctors. Learned counsel also submits that the process under Section 82 Cr.P.C. has been issued against the accused persons. Hon'ble Supreme Court, in the case of ***Srikant Upadhyay v. State of Bihar, AIR 2024 SC 1600***, has held that an accused would not be entitled to pre-arrest bail, if the non-bailable warrant and the proclamation under Section 82(1) Cr.P.C. is pending against him.

6. In reply, learned counsel for the petitioners submits that proclamation has not been issued under Section 82(4) Cr.P.C. After rejection of anticipatory bail application by learned Sessions Judge, Gopalganj, the petitioners moved before this Court and during that period, proceedings under Section 82



Cr.P.C. started. Learned counsel further submits that petitioners were not absconding and were pursuing their legal remedy of anticipatory bail before this Court.

7. Having regard to the facts and circumstances of the case and taking into consideration the nature of allegation and the fact that there is land dispute between the parties as also considering the fact that petitioner no. 1 is a lady and as far as petitioner no. 3 is concerned, he is a student having no specific allegation, I am inclined to grant the privilege of anticipatory bail to the petitioners no. 1 and 3.

8. However, in so far as petitioner no. 2 is concerned, there is specific allegation against him of assaulting the informant, due to which, he sustained grievous injury i.e. fracture on his leg and underwent surgery of his leg, accordingly, I am not inclined to grant anticipatory bail to petitioner no. 2 and his prayer for bail is rejected.

9. This application is partly allowed.

10. Let petitioners no. 1 and 3, abovenamed, in the event of their arrest or surrender before the Court below within six weeks, 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 learned Chief Judicial



Magistrate, Gopalganj in connection with Gopalganj PS case no.
963 of 2023, subject to the condition laid down under Section
438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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