

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 39992 of 2024

Arising Out of PS. Case No.-98 Year-2024 Thana- BARHARA District- Bhojpur

1. Shyamji Upadhaya S/O Tarkeshwar Upadhyay R/O Village - Mamarakpur, P.S.- Krishnagarh (Barahara), Distt- Bhojpur
2. Chhote Upadhyay @Nandan Kumar Upadhyay S/O Shyamji Upadhaya R/O Village - Mamarakpur, P.S.- Krishnagarh (Barahara), Distt- Bhojpur
3. Asha Upadhyay @Ashutosh Kumar Upadhyay S/O Shyamji Upadhaya R/O Village - Mamarakpur, P.S.- Krishnagarh (Barahara), Distt- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amarendra Kumar, Advocate
For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 03-07-2024

Heard the parties.

2. The petitioners are apprehending their arrest in connection with Barahara P.S. Case No. 98 of 2024 for the offence punishable under sections 341, 323, 447, 448, 504, 354B, 307, 379/34 of the I.P.C. lodged on 23.02.2024 by the informant, Gunjan Upadhyay.

3. As per the prosecution story, the informant alleged that the accused persons entered the house and started assaulting. Petitioner no. 2, Chhote Upadhyay gave iron rod blow on the head of the informant causing injury whereafter petitioner no. 1, Shyamji Upadhaya again gave order which



followed the assault by petitioner no. 3, Ashu Upadhyay and Bade Upadhyay. Allegation against accused persons is of assaulting and also taking away the belongings from the home. Anyhow she reached the police station and was shifted to Sadar Hospital, Ara immediately by the police. This followed the FIR.

4. Learned counsel for the petitioners submit that so far as the allegation against petitioner no. 1, Shyamji Upadhaya is concerned, only the allegation of order giver is there. Regarding the other accused persons including petitioner nos. 2 and 3, he submits that though there is allegation of assault, injury have been found to be simple in nature, they are family members and are ready to abide by the conditions.

5. Learned APP opposes the prayer submitting that specific allegation is against petitioner no. 2, Chhote Upadhayay and petitioner no. 3, Ashu Upadhyay of seriously injuring the informant. Further, so far as the delay in lodging the FIR is concerned, the police took her to Sadar Hospital, Ara where she was undergoing treatment. The police is at fault in delay in lodging of the FIR for which no relief can be granted to the accused persons.

6. He submits that the kind of assault that the informant suffered as also injury report which shows that no



opinion till C.T. Scan comes very well demolishes report of it being simple in nature.

7. Considering the aforesaid submissions of the parties especially the learned APP, regarding petitioner nos. 2 and 3 (Chhote Upadhayay and Ashu Upadhyay) are concerned, the anticipatory bail application stands rejected. They are well advised to take route of bail.

8. So far as petitioner no. 1, Shyamji Upadhayay is concerned, he is mainly order giver and is an aged person, this Court is inclined to extend him the privilege of anticipatory bail with conditions.

9. Let the petitioner no. 1 be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur, Ara, in connection with Barahara P.S. Case No. 98 of 2024 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member/relative of the petitioner no. 1 who shall provide official document to show his/her bona fide;

(ii) the petitioner no. 1 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 their bail bond by the Trial Court itself;

(iii) the petitioner no. 1 shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner no. 1 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;

(v) the petitioner no. 1 shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

kiran/-

U		T	
---	--	---	--

