

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**CRIMINAL MISCELLANEOUS No.45203 of 2024**

Arising Out of PS. Case No.-183 Year-2021 Thana- PALANWA District- East Champaran

1. Saurav Upadhaya @ Saurav Upadhayay @ Saurav Kumar Upadhayay SON OF RAJIV UPADHYAY VILLAGE- SEMARI WARD NO. 13, PS- PALANWA DIST- EAST CHAMPARAN
2. RAJIV UPADHYAY SON OF OM PRAKASH UPADHAYA VILLAGE- SEMARI WARD NO. 13 PS- PALANWA DIST- EAST CHAMPARAN
3. SUBHASH UPADHAYAY SON OF NAGA UPADHAYA VILLAGE- SEMARI WARD NO. 13 PS- PALANWA DIST- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Subodh Kumar Barnwal

For the Opposite Party/s : Mr. Binod Kumar

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**

**ORAL ORDER**

- 2      24-07-2024      1. Heard learned Counsel for the petitioners and learned Additional Public Prosecutor for the State.
2. This application, for grant of anticipatory bail, arises out of Tr. No. 2351 of 2023 arising out of Palanwa Police Station Case No. 183 of 2021, dated 16.12.2021, disclosing offences under Sections 341/323/379/307/504/34 of the Indian Penal Code.
3. The prosecution case, as per the First Information Report, is that on 16.12.2021, while the informant was sitting at



his door, the petitioners, along with other accused persons, having weapon in their hands, started assaulting the informant. When the son of the informant intervened, they also assaulted him, wrapped a rope around his neck and tried to kill him and snatched gold chain from his neck.

4. Learned counsel for the petitioners submits that there is counter case also lodged by the side of the petitioners against the informant, bearing Palanwa Police Station Case No. 182 of 2021, which is prior in time to the present First Information Report. He further submits that the informant of the present case assaulted the sister-in-law of the petitioner no. 3 and when the petitioners went to enquire about the matter, the informant and others assaulted them for which Palanwa Police Station Case No. 182 of 2021 has been lodged. He next submits that the petitioners were given benefit of Section 41 (A) of the Code of Criminal Procedure during course of the investigation. The police submitted charge-sheet under Section 341/323/325/504/506/34 of the Indian Penal Code, however, learned Magistrate differed with the police report and took cognizance under Section 307 also.



The petitioners have apprehension that they may be taken into custody after cognizance under Section 307. He further submits that the injuries caused to the informant are simple in nature, except one injury that is a fracture of nasal bone which is not a vital part of the body.

5. Regards being had to the submissions made on behalf of the parties and taking into consideration the fact that during course of the investigation the petitioners were given benefit of Section 41 (A) of the Indian Penal Code and further the police has submitted charge-sheet and cognizance has been taken under Section 307 against the petitioners, I am inclined to grant the petitioner privilege of anticipatory bail.
6. This application is, accordingly, allowed.
7. Let the petitioners, above named, in the event of their arrest or surrender before the Court below within four 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 Judicial Magistrate 1<sup>st</sup> Class, Raxaul Motihari, East Champaran, in connection with Tr. No. 2351 of 2023 arising out of Palanwa Police Station Case No. 183 of 2021, subject to



the condition laid down under Section 438 (2) of the Code  
of Criminal Procedure.

(Anil Kumar Sinha, J)

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