

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56160 of 2023

Arising Out of PS. Case No.-36 Year-2021 Thana- PUPRI District- Sitamarhi

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1. Sarthak Mishra @ Some Mishra S/O Krishna Chandra Mishra Resident Of Village Pupri, P.S. Pupri, District Sitamarhi
 2. Monu Mishra @ Shubham Kumar Son Of Baliram Mishra Resident Of Village Pupri, P.S. Pupri, District Sitamarhi
 3. Avinash Mishra @ Avnish Mishra Son Of Satya Narayan Mishra Resident Of Village Pupri, P.S. Pupri, District Sitamarhi
 4. Satya Narayan Mishra Son Of Late Prem Lal Mishra Resident Of Village Pupri, P.S. Pupri, District Sitamarhi

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Ms. Tanuja Mishra, Advocate Mr. Utkarsh Bhushan, Advocate Mr. Shaswat Upmanyu, Advocate
For the Opposite Party/s	:	Mr. Dinesh Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 04-04-2024 Heard learned senior counsel for the petitioners Sri Rajendra Narayan, learned A.P.P. for the State and learned counsel appearing on behalf of the informant.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 323, 324, 504, 379 and 34 of the Indian Penal Code and later on added Section 307 of the Indian Penal Code.

3. Learned senior counsel submits petitioner No.1 has



antecedents of two cases while petitioner Nos. 2 & 4 have antecedent of one case and petitioner No. 3 is a person with clean antecedent.

4. It is next submitted that petitioner No. 3 is son of petitioner No. 1. It is next submitted that the petitioners and the informant are related and are having dispute relating to property and the informant alleged that while he was coming from the market along with his uncle when the accused persons including the petitioners intercepted and brutally assaulted one of his uncles Mohan Mishra by *lathi* and iron rod causing injury over his head and considering the uncle of the informant to be dead left, thereafter, the injured was brought to P.H.C. Pupri from where he was referred to S.K.M.C.H. but finally taken to Nobel Hospital for better treatment.

5. The learned senior counsel for the petitioners, at the outset, draws the attention of the Court to paragraph No.3 of the anticipatory bail application to submit that no doubt petitioner Nos. 1, 2 and 4 have antecedent, but then, the cases have been compromised and the petitioners are on bail.

6. It is further submitted that insofar as petitioner No.1 is concerned, one case was instituted against him when a dispute arose while playing cricket. It is also submitted that the



petitioner Nos. 1, 2 and 3 are young boys in the age group of 22-23 years. It is also submitted that in the aforesaid cases in which they were implicated, they were granted the privilege of bail on surrender and were not sent to judicial custody.

7. It is further submitted that even allegation of assault is general and omnibus in nature as in the F.I.R. nine accused persons have been implicated by name along with 5 to 6 unknown. It is next submitted that no specific allegation of assault is alleged against any of the accused persons and then reiterate that petitioner No.3 is a person with clean antecedent. It is also submitted that petitioner Nos. 1, 2 and 3 are young boys and in the event if they are sent to judicial custody, chances are bright that they may come in contact with hardened criminals which will further restrict their future prospect. It is also submitted that from the side of the petitioners also Pupri P.S. Case No. 25 of 2021 has been instituted against the side of the informant and others wherein it is alleged that the side of the petitioners were also assaulted. It is next submitted that the instant F.I.R. is a counterblast of Pupri P.S. Case No. 25 of 2021.

8. Learned A.P.P. for the State along with learned counsel appearing on behalf of the opposite party No.2 opposes the anticipatory bail application of the petitioners, but then, are not



in a position to rebut the submission of the learned senior counsel for the petitioners that there is no specific allegation of assault alleged against the petitioners rather the allegation of assault is general and omnibus in nature.

9. Since petitioner Nos. 1, 2 and 3 are young boys of impressionable age and are not criminals, as such, it would not be prudent for the Court to send them judicial custody where chances are bright that they may come in contact with hardened criminals.

10. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Pupri P.S. Case No. 36 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

11. However, the opposite party No.2 shall be at liberty to file an application seeking cancellation of anticipatory bail granted to the petitioners in the event if it is found that



petitioners have more antecedent than what has been recorded at
paragraph No. 3 of the anticipatory bail application.

(Satyavrat Verma, J)

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