

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59872 of 2024

Arising Out of PS. Case No.-706 Year-2023 Thana- SURSAND District- Sitamarhi

1. Shivam Sah @ Shivam Kumar Son of Biltu Sah Resident of village- Matouna PS- Sursand Dist -Sitamarhi
2. Suraj Sah @ Suraj Kumar Son of Mahesh Sah R/o Village- Madhurapur, Ps- Bajpatti, Dist- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Vikash Kumar Jha, Advocate
For the Opposite Party/s :	Mr. Nitya Nand Tiwary, APP
	Mr. Alok Kumar Alok
	Mr. Santosh Kumar, Advocates

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 13-09-2024 Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State.

2. The petitioners apprehend arrest in connection with Sursand P. S. Case No. 706 of 2023 dated 14.12.2023, instituted for the offence punishable under Sections 341, 342, 323, 324, 307, 379, 504, 506 & 34 of the Indian Penal Code.

3. The allegation against the petitioner No.2, namely, Suraj Sah @ Suraj Kumar is that he along with Jiwachh Sah threatened the informant by pistol and co- accused Brij Mohan Sah inflicted *dab* blow upon his head causing injury. It is also alleged that petitioner No.1, namely, Shivam Sah @ Shivam Kumar inflicted *Fasuli* blow on the person of the informant.



4. Learned counsel for the petitioners submits that the petitioners are innocent and they have been falsely implicated in this case. It is further submitted that there is no allegation of assault against the petitioner No.2 rather the allegation is general and omnibus in nature. It is submitted that there is specific allegation against petitioner No.1 of inflicting '*Fasuli*' blow on the person of the informant. Learned counsel further submitted that there is no injury report available on the record to support the allegation against him. Learned counsel draws the attention of the Court towards 2nd page of the impugned order dated 22-06-2024, passed in A.B.P. No.719 of 2024 by the learned Sessions Judge, Sitamarhi, wherein, while rejecting the anticipatory bail of the petitioners, the learned Sessions Judge had mentioned that in spite of several attempt to procure the injury report, prosecution has failed to produce the injury report with case dairy. It is submitted that incident had taken place on 21.11.2023 at 19.00 PM whereas, the *fardbeayn* was recorded on 23.11.2023 and the FIR was lodged on 14.12.2023. Also other co-accused, namely, Jiwachh Sah @ Jibachh Sah has already been granted anticipatory bail by this Court *vide* order dated 22-03-2024 passed in Cr Misc. No. 16583 of 2024 (Annexure- P/2). It is submitted that the petitioner No.2 has one



criminal case against him, whereas the petitioner No.1 has no criminal antecedents.

5. Learned counsel for the informant and learned A.P.P. have opposed the prayer for bail of the petitioners. It is submitted that there is specific allegation against petitioner No.1 of inflicting ‘*Fasuli*’ blow on the person of the informant, as a result of which, the informant has sustained injury. On query, learned counsel for the informant also failed to produce any injury report of the informant.

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 Sursand P.S. Case No, 706 of 2023, 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 CJM, Sitamarhi, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Khatim Reza, J)

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