

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65215 of 2024

Arising Out of PS. Case No.-224 Year-2021 Thana- BIHRA District- Saharsa

1. Kundan Sharma Son of Vishundeo Sharma @ Vishundev Sharma village-kataiya Ward no. 11, Ps- Bihra, dist- Saharsa
2. Ashok Sharma Son of Vishundeo Sharma @ Vishundev Sharma village-kataiya Ward no. 11, Ps- Bihra, dist- Saharsa
3. Pappu Sharma son of Vishundeo Sharma @ Vishundev Sharma village-kataiya Ward no. 11, Ps- Bihra, dist- Saharsa
4. Vishundeo Sharma @ Vishundev Sharma @ Bishnudeo Sharma Son of Late Munor Sharma, R/o village- Kataiya, Ward no. 11, PS- Bihra, Dist- Saharsa.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Chandra Mohan Jha, Advocate
For the Opposite Party : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 02-12-2024 Heard Mr. Chandra Mohan Jha, the learned counsel
for the petitioners and Mr. Shantanu Kumar, the learned
Additional Public Prosecutor for the State.

2. After some arguments learned counsel for the
petitioner seeks permission to withdraw this application with
respect to petitioner no. 4 namely, Vishundeo Sharma @
Vishundev Sharma @ Bishnudeo Sharma, with a liberty to the
petitioner to surrender within a period of two weeks from today
and if the petitioner no. 4 surrenders with the aforesaid period,
the learned trial Court is directed to consider the bail prayer on



its own merit without being prejudiced to the present order and dispose it of the same day.

3. Permission, as prayed for, is accorded.

4. Accordingly, the anticipatory bail application with respect to petitioner no. 4, namely, Vishundeo Sharma @ Vishundev Sharma @ Bishnudeo Sharma is dismissed as withdrawn.

5. The petitioner nos. 1 to 3 are apprehending their arrest in connection with Bihara PS Case No. 224 of 2021, FIR dated 29.10.2021, registered for the offences punishable under Sections 447, 323, 324, 427, 354(B) and 307 read with Section 34 of the Indian Penal Code.

6. According to the prosecution case, FIR named accused persons, variously armed, destroyed the house that informant was building on her land and when she opposed to the same, they assault the informant and her family members. It is further alleged that one Kundan Sharma snatched golden chain from her neck.

7. Learned counsel for the petitioner nos. 1 to 3 submits that petitioner nos. 1 to 3 have clean antecedent and they have falsely been implicated in the present case. He further submits that upon perusal of the FIR, it appears that the date of



occurrence as alleged in the FIR is on 16.10.2021, but the present FIR has been instituted on 29.10.2021, after a delay of about thirteen days without giving any explanation for the said delay, afterthought, only to falsely implicate these petitioner nos. 1 to 3. He further submits that there is case and counter case between the parties and petitioner nos. 1 to 3 and the informant are agnates and due to admitted land dispute the present occurrence has taken place. He further submits that although, petitioner nos. 1 to 3 are named in the FIR, and there is direct and specific allegation against these petitioner nos. 1 to 3, that they have assaulted to the informant and her family members, however, the injury report of the injured persons suggests that all the injuries inflicted upon the family members of the informant, except the injury of Gonur Sharma, are simple in nature.

8. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner nos. 1 to 3.

9. Considering the aforesaid facts and circumstances and mainly the facts that petitioner nos. 1 to 3 have clean antecedent and injury report of the injured persons are found to be simple in nature, let the petitioner nos. 1 to 3, above-named,



in the event of their arrest or surrender before the learned trial Court, within a period of four weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saharsa, where the case is pending in connection with **Bihara PS Case No. 224 of 2021**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

(i). Petitioner nos. 1 to 3 shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the learned trial Court.

(ii). If the petitioner nos. 1 to 3 tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii). And further condition that the learned trial Court shall verify the criminal antecedent of the petitioner nos. 1 to 3 and in case, at any stage, it is found that the petitioner nos. 1 to 3 have concealed their criminal antecedent, the learned



trial Court shall take step for cancellation of bail bond of the petitioner nos. 1 to 3. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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