

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75046 of 2024

Arising Out of PS. Case No.-310 Year-2022 Thana- MADHUBAN District- East Champaran

1. Brahmdayal Sahani S/o Sakal Sahani R/o Village- Hardiya Tola Kans Pakari, P.O. and P.S.- Madhuban, District- East Champaran
2. Ishwar Dayal Sahani S/o Sakal Sahani R/o Village- Hardiya Tola Kans Pakari, P.O. and P.S.- Madhuban, District- East Champaran
3. Niraj Dayal S/o Ishwar Dayal Sahani R/o Village- Hardiya Tola Kans Pakari, P.O. and P.S.- Madhuban, District- East Champaran
4. Kisun Sahani S/o Fulgen Sahani R/o Village- Hardiya Tola Kans Pakari, P.O. and P.S.- Madhuban, District- East Champaran
5. Jaipati Devi W/o Sakal Sahani R/o Village- Hardiya Tola Kans Pakari, P.O. and P.S.- Madhuban, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pravin Kumar, Advocate

For the Opposite Party/s : Mr. Aditya Narayan Singh.1, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 05-12-2024 Heard Learned Counsel for the petitioners and
Learned APP for the State

2. The petitioners are apprehending arrest in connection with Madhuban P.S. Case No. 310 of 2022, lodged on 18.07.2022, under Sections 341, 323, 324, 307, 379, 504/34 of the Indian Penal Code.

3. As per the prosecution, FIR has been lodged against six named accused persons including the present petitioners against whom there is allegation that they have assaulted the



informant due to which he sustained several injuries on his body.

4. Learned Counsel for the petitioners submits that the petitioners are innocent and have committed no offence. Counsel further submits that the present case is the counter-blast case of Madhuban P.S. Case No. 318 of 2022 which was lodged by the petitioner No. 5, namely, Jaipati Devi. Counsel further submits that petitioner No. 1 has two criminal antecedents, petitioner Nos. 2 & 3 have one criminal antecedent. Counsel further submits that inadvertently in paragraph No. 3, it has been mentioned that petitioner Nos. 4 & 5 have clean antecedent but later in the same paragraph, it states that they have one criminal antecedent. Counsel further submits that the Hon'ble Session Court has rightly observed in the impugned order that petitioner Nos. 4 & 5 have clean antecedent. Therefore, the observation of the Additional Sessions Judge-19 may kindly be accepted.

5. Learned APP for the State opposes the prayer for anticipatory bail and submits that Madhuban P.S. Case No. 310 of 2022 was lodged by the informant, whereas Madhuban P.S. Case No. 318 of 2022 was lodged by the petitioner. This indicates that the informant's case was lodged prior to the petitioner's case, and therefore, Madhuban P.S. Case No. 318 of



2022 cannot be considered as a counter-blast case. Counsel further submits that in the FIR, there is specific allegation against all the petitioners for assaulting the informant with the intention to kill and this aspect may be taken into consideration while considering the bail application of the petitioners.

6. Upon bare perusal of the FIR, it transpires to this Court that the only allegation against the petitioner No. 4 is that he is the order giver, otherwise, there is no specific allegation against him. As for the other accused persons, there is specific allegation that they, in connivance with each other, assaulted the informant by which he sustained injuries on his body.

7. As such, considering the aforesaid facts and circumstances, **let the petitioner No. 4, namely, Kisun Sahani be released on bail**, in the event of arrest or surrender before the learned Court below within a period of 4 weeks from today, on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of Judicial Magistrate, Ist Class, Motihari, East Champaran in connection with Madhuban P.S. Case No. 310 of 2022, subject to the conditions as laid down under Section 438(2) Cr.P.C.

8. So far as the case of petitioner No. 1, namely,



Brahmdayal Sahani, petitioner No. 2, namely, Ishwar Dayal Sahani, petitioner No. 3, namely, Niraj Dayal, and petitioner No. 5, namely, Jaipati Devi, this Court is not inclined to grant bail to them.

9. Accordingly, the prayer for anticipatory bail of petitioner Nos. 1, 2, 3 and 5 is hereby rejected.

10. It is directed to petitioner Nos. 1, 2, 3 and 5 to surrender before the learned Court below within a period of 4 weeks from today. In case, the petitioner Nos. 1, 2, 3 and 5 surrender within four weeks, then the Trial Court is directed to pass order on his surrender-cum-bail application on the same day without being prejudice that the anticipatory bail of the petitioner Nos. 1, 2, 3 and 5 has been rejected by this Court and the Trial Court shall pass order on the merit of this case.

Aman Kumar/-

(Dr. Anshuman, J)

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