

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78038 of 2024

Arising Out of PS. Case No.-379 Year-2024 Thana- SHIVSAGAR District- Rohtas

1. Tuna Paswan S/O Baban Paswan Resident of Village - Sahua, P.S- Shivsagar Dist.- Rohtas (Sasaram), State- Bihar.
2. Rahul Paswan S/O Baban Paswan Resident of Village - Sahua, P.S- Shivsagar Dist.- Rohtas (Sasaram), State- Bihar.
3. Baban Paswan @ Baban Ram S/O Late Raja Ram Paswan Resident of Village - Sahua, P.S- Shivsagar Dist.- Rohtas (Sasaram), State- Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Saroj Kumar, Adv.
For the Opposite Party/s :	Mr. Ashok Kumar Singh, APP.
	Mr. Dhaneshwar Prasad Gupta, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 21-11-2024 Heard learned counsel for the petitioners, learned A.P.P.
for the State and learned counsel for the informant.

2. The petitioners apprehend their arrest in connection with Shivsagar P.S. Case No. 379 of 2024 registered for the offences punishable under Sections 126(2), 115(2), 303(2), 329(3), 109, 352, 351(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 27 of the Arms Act.

3. As per FIR, all the FIR named accused persons including the petitioners abused the informant and took Rs. 5,000/- and snatched a golden chain from his possession as well. Petitioner no.3 along with co-accused Purushottam Paswan and



Teju Paswan also opened fire upon the house of the informant and threatened him of dire consequences.

4. It is submitted by learned counsel for the petitioners that petitioners are quite innocent and have committed no offence. No such occurrence as alleged has ever taken place. They have falsely been implicated in this case due to ulterior motive. The allegation levelled against the petitioners is totally false and based on concocted facts. Both the parties are co-villagers and there is case and counter case between them. It is further submitted that no non-bailable section of BNS, 2023 as well as Arms Act, 1959 cannot be attributed against any of the petitioners as there is no specific overt act against them and no person was injured in the alleged occurrence. It is further submitted that similarly situated co-accused have been granted anticipatory bail from the learned Court below itself, but the prayer for anticipatory bail on behalf of the petitioners have been rejected merely on the basis of the criminal antecedents of the petitioners. Learned counsel further submits that though petitioner no.1 has two criminal antecedents, petitioner nos. 2 & 3 have three criminal antecedents, but mere pendency of several criminal cases against the petitioners cannot itself be the basis for refusal of bail. Learned counsel has further relied



upon the judgment of the Apex Court in the case of *Mohammad Wajid & Anr. Versus State of U.P. & Ors, Criminal Appeal No. 2340 of 2023* order dated August 08, 2023 (Arising out of S.L.P. (Criminal) No. 10656 of 2022) reported in *2023 LiveLaw (SC) 624 : 2023 INSC 683*, in which it is laid down that the criminal antecedents of the accused cannot be the sole consideration to decline to quash criminal proceedings.

5. Learned APP for the State as well as learned counsel for the informant opposes the prayer for bail.

6. Considering the facts and circumstances of the case as well as the nature of the offence, I am not inclined to enlarge the petitioners on anticipatory bail. The prayer for anticipatory bail of the petitioners is hereby rejected.

7. Accordingly, the application stands dismissed.

(Anjani Kumar Sharan, J)

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