

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6380 of 2024

Arising Out of PS. Case No.-141 Year-2023 Thana- JADIA District- Supaul

1. Lakhan Sah @ Dalo Sah SON OF LATE GOSAI SAH Village- Khunt, PS- Jadia, District- Supaul.
2. Ramanand Sah @ Ramanand Kumar SON OF LAKHAN SAH @ DALO SAH Village- Khunt, PS- Jadia, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Jha, Adv.
For the informant	:	Mrs. Meena Singh, Adv.
For the Opposite Party/s	:	Mr.Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

8 12-07-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Jadia P.S. Case No. 141 of 2023 dated 29.05.2023 for the offences punishable u/ss 147, 148, 149, 341, 323, 324, 307, 120B, 504 and 506 of the Indian Penal Code and u/s 27 of the Arms Act.

3. As per the prosecution case, on 28.05.2023, the informant along with his brothers was sitting at Bhagwati Chowk, in the meantime, the petitioners and the co-accused persons along with other unknown persons variously armed surrounded them and started assaulting and threatening for dire consequences to them. When it was opposed, the co-accused,



Narayan Sah fired on the informant due to which he fell down on the ground then the co-accused, Narayan Sah also assaulted on the head of the informant with the butt of the weapon. It is further alleged that when the informant's brother Umesh Sah came there then the co-accused, Sadanand Sah fired which hit his abdomen and he fell down. Thereafter, the petitioner, Ramanand Sah fired which hit the rib cage (panjra) of Umesh Sah. The co-accused, Dalo Sah fired which hit the pankhura of Umesh Sah. It is further alleged that the co-accused Ranjan Sah also fired on the back of the informant's brother who fell on the ground in unconscious state. When the informant's brother Bharat Sah tried to rescue the said victim then the accused Jay Prakash Yadav fired which pierced the left arm of Bharat Sah and he fell down then the accused Naresh Sah assaulted on his head with three nut. In the meantime, local people gathered and started surrounding them then they started firing indiscriminately with an intention of spreading terror. Thereafter, the accused persons fled away. The injured were taken to the hospital for treatment.

5. Learned counsel for the petitioners have submitted that the petitioners are innocent and has falsely been implicated in this case. There is land dispute between the parties. Learned



counsel has further submitted that the petitioners' side and the informants' side are gotias and there are many civil and criminal cases between the parties. Further, the informant and injured Umesh Sah are full brother and the injured, Bharat Sah is cousin brother of the informant and the petitioners. No indiscriminate articles/ arms has been recovered from the conscious possession of the petitioners. It is further submitted that the petitioners have no concern with the alleged offence. The petitioner no. 1 has 9 criminal antecedents whereas the petitioner no. 2 has six criminal antecedents as stated in para 3 of the bail petition.

4. Learned A.P.P. for the State as well as learned counsel has for informant have vehemently opposed the prayer for anticipatory bail of the petitioners. Learned counsel has further submitted that the instant anticipatory bail application is not maintainable as the process u/ss 82 and 83 of the Cr.P.C. has already been issued against the petitioners. The petitioners are declared a proclaimed offender. Learned counsel for the informant has further relied upon the case of (*Abhishek vs. State of Maharashtra (2022) 14 SCC 529*) where it was held that “As regards the implication of proclamation having been issued against the appellant, we have no hesitation in making it



clear that any person, who is declared as an 'absconder' and remains out of reach of the investigating agency and thereby stands directly at conflict with law, ordinarily, deserves no concession or indulgence." Reliance has further been placed on the decisions of ***(Lavesh vs. State (NCT of Delhi) (2012) 8 SCC 730, Adri Dharan Das vs. State of W.B. (2005) 4 SCC 303)*** and ***(Prem Shankar Prasad vs. State of Bihar 2021 SCC Online SCC 955)*** and in the case of ***(State of Haryana vs. Dharamraj (Cr. Appeal No. 2635 of 2023 @ out of SLP (Cri.) No. 2256 of 2022, reported in 2023 LiveLaw (SC) 739: 2023 INSC 784)*** disposed of 29.08.2023 wherein the Hon'ble Apex Court has held that: *"Anticipatory bail can be granted to a person to a proclaimed offender only in exceptional and rare case."* It is further submitted that the materials available on the record do not reveal any exceptional or rare case due to which the plea of anticipatory bail may be considered. Learned counsel for the informant has further relied on the judgment of **Srikant Upadhyay & Ors. Vs. State of Bihar & Anr. in SLP (Crl) No. 7940 of 2023** where it was held that *"even after the issuance of non-bailable warrants they did not care to appear before the Trial Court and did not apply for regular bail after its recalling. It is a fact that even after coming to know about the*



proclamation under Section 82 Cr.P.C., they did not take any steps to challenge the same or to enter appearance before the Trial Court to avert the consequence. Such conduct of the appellants in the light of the aforesaid circumstances leaves us with no hesitation to hold that they are not entitled to seek the benefit of pre-arrest bail.”

5. Considering the aforesaid facts and circumstances of the case as well as the fact that the process u/ss 82 and 83 has been issued against the petitioners, accordingly, the anticipatory bail petition is not maintainable. Accordingly, the same is disposed of with direction to the petitioners to surrender to the Court below within a period of six weeks from the date of this order and the Court below will consider the prayer of the bail of the petitioners in accordance with law and on its own merits without being prejudiced by this order.

6. The application stands disposed of.

(Chandra Prakash Singh, J)

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