

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.404 of 2024

Arising Out of PS. Case No.-122 Year-2023 Thana- RUPAULI District- Purnia

1. Mithlesh Yadav @ Mithlesh Kumar Yadav And Ors S/o Sri Awdhesh Prasad Yadav Resident of village- Kanp, P.S. Rupauli (Mahanpur), Dist.- Purnea.
2. Amresh Yadav S/o Sri Awdhesh Prasad Yadav Resident of village- Kanp, P.S. Rupauli (Mahanpur), Dist.- Purnea.
3. Chandrakala Devi @ Amirkala Devi W/o Sri Amresh Yadav Resident of village- Kanp, P.S. Rupauli (Mahanpur), Dist.- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amit Anand, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 29-01-2024 Heard Mr. Amit Anand, learned counsel for the

petitioners and the State.

2. The petitioners are apprehending their arrest in connection with Rupauli (Mohanpur) P.S. Case No. 122 of 2023 for the offence under Sections 341, 323, 324, 308, 504, 506 and 34 of the I.P.C. lodged on 04.05.2023 by the informant, Amirkala Devi.

3. As per the prosecution story, the informant has alleged that while fencing on their land, the accused persons came and allegation against petitioner No. 02 (Amresh Yadav) is of hitting Rajesh Kumar Yadav on his head causing injuries. Further allegation against his wife (Petitioner No. 3) is of hitting him under the eyes with *kachiya*. When his younger son Rakesh Yadav came



running he was also attacked both were brought home and later sent for treatment under police protection. Accordingly, the FIR.

4. Learned counsel for the petitioners submit that there is a case and counter case. Their case being earlier to that of the informant. Both sides have sustained injuries, are agnates and do not have criminal antecedent.

5. Learned APP opposes the prayer stating that allegation is against Amresh Yadav of assaulting Rajesh Yadav on his head. He further submits that even his wife has been alleged to have assaulted him under his eye.

6. Learned counsel for the petitioners submits that a perusal of the order of the learned Session Judge shows that the injury of Rakesh Kumar has been found to be simple in nature while that of Rajesh Kumar the opinion was reserved.

7. Considering the allegation that has come against petitioner No. 02 (Amresh Yadav), this Court is not inclined to extend him the privilege of anticipatory bail which is accordingly rejected. However, so far as Mithlesh Yadav @ Mithlesh Kumar Yadav is concerned no overt act



is alleged against him. Further, though allegation of assault is also on Chandrakala Devi @ Amirkala Devi, taking into account that she is a lady, do not have criminal antecedent, this Court is inclined to extend privilege of anticipatory bail both to petitioner No. 01 Mithlesh Yadav @ Mithlesh Kumar Yadav and petitioner No. 03 Chandrakala Devi @ Amirkala Devi and the same with respect to the two petitioners are allowed.

8. Let the petitioner Nos. 01 and 03, namely, Mithlesh Yadav @ Mithlesh Kumar Yadav and Chandrakala Devi @ Amirkala Devi be released on bail in the event of their arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Purnea, in connection with Rupauli (Mohanpur) P.S. Case No. 122 of 2023 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor of petitioner Nos. 1 and 3 should be the family member of the petitioners who shall provide official document to show their bona fide;



(ii) the petitioner Nos. 1 and 3 shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioner Nos. 1 and 3 shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner Nos. 1 and 3 shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

8. With the aforesaid observations, the anticipatory bail application is allowed (with respect to petitioner No. 1 and 3).

(Rajiv Roy, J)

Adnan/-

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