

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10744 of 2025

Arising Out of PS. Case No.-293 Year-2010 Thana- COMPLAINT CASE District- Lakhisarai

1. Nandlal Choudhary Son of Late Munshi Chaudhary Resident of Village -Bartara Post- Barhara PS- Halsi, Dist- Lakhisarai
2. Shankar Choudhary Son of Late Munshi Chaudhary Resident of Village -Bartara Post- Barhara PS- Halsi, Dist- Lakhisarai
3. Jhapsu Choudhary @ Pawan Choudhary Son of Kamal Choudhary Resident of Village -Bartara Post- Barhara PS- Halsi, Dist- Lakhisarai
4. Kamal Choudhary son of Ram Chaliga Chaudhary Resident of Village -Bartara Post- Barhara PS- Halsi, Dist- Lakhisarai
5. Teni Choudhary @ Shailendra Choudhary son of Nandlal Chaudhary Resident of Village -Bartara Post- Barhara PS- Halsi, Dist- Lakhisarai
6. Suman Choudhary Son of Nandlal Choudhary Resident of Village -Bartara Post- Barhara PS- Halsi, Dist- Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vijay Saw son of Ganauri Saw Resident of Village -Bartara PS- Halsi, Dist- Lakhisarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nivedita Chaudhary, Advocate
For the State : Mr.Ashok Kumar Singh, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 23-04-2025 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehend their arrest in connection with Complaint Case No.293C/2010 wherein the cognizance of the offence has been taken under Sections 323, 341, 379, 384 and 504/34 of the Indian Penal Code.

3. By the last order dated 07.03.2025, the petitioners have been directed to file a supplementary affidavit stating that



the petitioners have not been declared proclaimed offenders by the learned court below.

4. Pursuant to the said order, a 2nd supplementary affidavit has been filed on behalf of the petitioners dated 17.03.2025 in which a categorical statement has been made in paragraphs 3 and 4 that the process for proclamation under Section 82 was initiated on 09.07.2024 but the same was not complied with in its entirety as the statutory requirements including the publication of notice and receipt of the execution report and declaration of proclaimed offender as enshrined under Section 82(4) of Cr.P.C. has not been done till date. It is also stated that no attachment process under Section 83 of the IPC has been initiated against the petitioners.

5. In this connection, learned counsel for the petitioners has also relied upon a judgment of the Hon'ble Apex Court passed in **Criminal Appeal No.4564 of 2024 (Asha Dubey vs. The State of Madhya Pradesh)**. Paragraphs 8 and 9 of the said judgment would disclose that there is not a total embargo on considering the application for the grant of anticipatory bail in the event of the declaration under Section 82 of the Cr.P.C. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature



of the offence and the background based on which such a proclamation was issued.

6. So far as the merits of the case is concerned, the prosecution case would reveal that there is an allegation against the petitioners that they came to the house of the complainant on the alleged date of occurrence variously armed with lathi, pistol etc. and demanded extortion money and upon refusal of the same, they assaulted the father of the informant and also took away some household articles.

7. Learned counsel for the petitioners submits that the allegations made in the FIR are not correct and as a matter of fact the father of the complainant had previously instituted an FIR bearing Halsi P.S. Case No.45 of 2010 for the same occurrence which is the subject matter of the present complaint petition. It has further been submitted that the father of the complainant also appeared as enquiry witness in the present complaint. This act is indicative of the fact that there is a deliberate suppression and concealment of the relevant facts by the complainant and they have not approached the authorities with clean hands. Further there is a case and counter case and the petitioner no.2 has filed an FIR bearing Halsi P.S. Case No.46 of 2010, which has been brought on record as Annexure-



P/3 to the present application. Further submission is that the earlier case being Halsi P.S. Case No.45 of 2010 has already been amicably settled in the Lok Adalat.

8. Learned APP for the State has opposed the prayer for anticipatory bail of the petitioners.

9. Taking into consideration the abovementioned facts and circumstances of the case and further that the petitioners have no criminal antecedent, I am inclined to extend the privilege of anticipatory bail to the petitioners. Let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate-1st Class, Lakhisarai in connection with Complaint Case No.293C of 2010, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. and subject to the further condition that the petitioners shall cooperate in the investigation/trial.

(Soni Shrivastava, J)

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