

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29061 of 2025

Arising Out of PS. Case No.-185 Year-2024 Thana- ARARIA District- Araria

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1. Nikhil Kishore Yadav @ Bhikhari Yadav @ Nikhil Kishore S/O Ramdev Yadav Resident of Village- Jalalgarh, Ward No. 7, P.S.- Jalalgarh, District- Purnea
 2. Mitthu @ Mukesh Kumar S/O Ramdev Yadav Resident of Village- Jalalgarh, Ward No. 7, P.S.- Jalalgarh, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nadimul Hasan, Adv.
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-05-2025 Heard the learned Advocate for the petitioners and the learned APP for the State.

2. The petitioners apprehend their arrest in connection with Araria P.S. Case No. 185 of 2024, registered for the offences punishable under Sections 341, 342, 447, 365, 354B, 504 and 506/34 of the Indian Penal Code.

3. Allegedly on the fateful day, while the informant along with her family members were in the house, in the meanwhile, 10-12 unknown miscreants entered into her courtyard and started assaulting her with fist and slap and taken her to Jalalgarh through a vehicle. There is further allegation that the accused persons misbehaved with her and co-accused Nikhil Kishor Yadav @ Bikhari Yadav has forcibly obtained



signature on a blank paper. Later on, the informant was left nearby Araria college.

4. Learned Advocate for the petitioners contended that with regard to an occurrence took place on 10.03.2024, the FIR came to be registered on 18.03.2024; irrespective of the fact that she herself stated that the accused persons left her on 11.03.2024 itself. Taking note of the aforesaid submissions, the petitioners have been accorded the privilege of anticipatory bail by the Court below itself. However, during the course of investigation on being found no materials against the petitioner no. 1, the police has submitted final report showing the petitioner no. 1 as innocent; though the charge-sheet has been submitted against other accused persons. The learned jurisdictional Court after considering the materials as also the final report took cognizance for the offences punishable under Sections 341, 342, 447, 365, 354B, 504 and 506/34 of the Indian Penal Code. In view of the subsequent development and on summon being served, the petitioners approached before the learned Principal District and Sessions Judge, Araria; however, their prayer for bail came to be rejected vide order dated 06.03.2025 with a direction to the petitioners to surrender and seek regular bail.

5. The learned counsel for the State opposed the pre-



arrest bail application and submits that since the cognizance has been taken against a graver offence, including section 365 of the IPC against the sections in relation to which the FIR was instituted; and the petitioners moved before the learned Sessions Judge afresh, however, considering the materials collected during the course of investigation, their prayer for bail has rightly been rejected.

6. Before parting with this case, it would be pertinent to observe that initially the FIR came to be registered under Sections 341, 342, 447, 354B, 504 and 506/34 of the Indian Penal Code and the learned District and Additional Sessions Judge vide order dated 22.05.2024 in ABP No. 926 of 2024, has been pleased to grant anticipatory bail to the petitioners. But later on, the learned jurisdictional Court took cognizance for the offence under Section 365 of the Indian Penal Code apart from other Sections, disclosed in the FIR. Hence, the summons were issued afresh to the petitioners.

7. There is no iota of confusion that once an accused has already granted bail, he could not be taken into custody again without the bail being cancelled, even if new offences were added. However, in case where the graver offence(s) is/are added in the charge-sheet and/or cognizance is taken for such



offence(s), in such circumstances, the accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In the event of refusal of bail, the accused can certainly be arrested and, as such, in case of cognizance, in graver offence, a new cause of action arises and the accused may approach before the appropriate Court.

8. The Hon'ble Supreme Court in the case of ***Pradeep Ram Vs. State of Jharkhand and Anr.***, reported in ***(2019) 17 SCC 326*** has ruled the aforesaid proposition and also clarified that In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it needs to obtain an order to arrest the accused from the court which had granted the bail.

9. Be that as it may, considering the materials available on record, especially the delay in lodging of the FIR and the omnibus nature of allegation in the backdrop of land dispute, this Court is inclined to allow the application, let the petitioners above named be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this



order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) **each** with two sureties of the like amount each to the satisfaction of the learned C.J.M, Araria in connection with Araria P.S. Case No. 185 of 2024, subject to the conditions laid down in Section 482(2) Bharatiya Nagarik Suraksha Sanhita, 2023 with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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