

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42307 of 2025

Arising Out of PS. Case No.-99 Year-2024 Thana- KHODAWANDPUR District- Begusarai

1. Sunil Kumar @ Sunil Mahto S/o- Chhotan Mahto Resident of Village- Baluaha, Police Station- Khodawandpur, District-Begusarai
2. Anil Mahto S/o- Chhotan Mahto Resident of Village- Baluaha, Police Station- Khodawandpur, District-Begusarai
3. Chhotan Mahto S/o- Fudi Mahto Resident of Village- Baluaha, Police Station- Khodawandpur, District-Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pratik, Advocate
For the Opposite Party/s : Mr. Jagdhar Prasad, A.P.P

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 27-06-2025 Heard learned counsel for the petitioners and learned
A.P.P for the State.

2. Learned counsel for the petitioners submits that prior to filing the present anticipatory bail application, petitioners above named have preferred anticipatory bail applications. Cr. Misc. No.24195 of 2025 has been filed on behalf of petitioner no.1 and Cr. Misc. No.24110 of 2025 has been filed on behalf of petitioner nos.2 and 3 and both the applications were dismissed *vide* order dated 06.05.2025. Counsel submits that earlier, anticipatory bail applications were not heard on merit, rather, it is the mistake done on the part of



the counsel in which 3½ lines of the typed copy of the FIR were not matched with the certified copy of the FIR which has been treated by this Court as suppression and only on the ground of suppression, both the anticipatory bail applications of the petitioners were dismissed. Counsel further submits that in filing the applications before this Court as per the norms, counsel has to submit a typed copy of the FIR which has to be compared with the counsel who is filing the application. He submits that due to mistake done on the part of the counsel, this Hon'ble Court has pleased to treat suppression and dismissed the application without hearing on merit. Counsel further submits that since, the earlier anticipatory bail applications were not heard on merit, it is due to this reason, he has filed the present anticipatory bail application with humble request that the order may be passed on merit and for the wrong done by the counsel, the petitioners may not be suffered.

3. There is subsistence in the argument of counsel for the petitioners, therefore, this Court agrees to hear the present bail application on merit.

4. The petitioners are apprehending arrest in connection with Khodawandpur P.S. Case No. 99 of 2024 lodged on 26.07.2024, for the offence punishable under Sections



126(2), 115, 118(1), 117, 109, 303(2), 76, 352, 351(2) & 3(5) of the Bharatiya Nyaya Sanhita, 2023.

5. As per the prosecution, FIR has been lodged against 10 named accused persons including the present petitioners against whom there is an allegation that they have assaulted the informant and her family members by *lathi*, *danda*, iron rod, *farsa* due to which injuries have been caused.

6. Learned counsel for the petitioners submits that the petitioners are innocent and have committed no offence. Counsel submits that it is true that allegation of assault is against all the accused persons, but the injury identified by the Sessions Court in the rejection order indicates that injuries all simple in nature. Counsel submits that the petitioners have no criminal antecedent. Counsel further submits that for the same date and place of occurrence, there is case and counter case i.e. one case has been lodged from the petitioners' side bearing Khodawandpur P.S. Case No. 98 of 2024 and the present case has been lodged from the informant's side bearing Khodawandpur P.S. Case No. 99 of 2024. Counsel further submits that considering the age, allegation and the criminal antecedent, petitioners deserve bail.

7. Learned APP for the State on the other hand



opposes the prayer for bail of the petitioners and submits that in the FIR, there is specific allegation against the petitioners. Against petitioner no.2, there is allegation that he was the order giver and provided the weapons to attack and subsequently, he has also assaulted the *nandosi* of the informant by iron rod due to which head injury has been caused. Against petitioner no.1, there is allegation that he has assaulted the informant's husband by *lathi* on his head due to which injury has been caused. Counsel submits that upon petitioner no.3, there is no specific allegation save and except, he was present at the place of occurrence.

8. As such, in the present facts and circumstances of this case as well considering the age, let the petitioner no.3 namely, Chhotan Mahto be released on anticipatory bail, in the event of arrest or surrender before the Trial Court within a period of 4 weeks from today, on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand) as mentioned in Section 2(1)(d) of the Bharatiya Nagarik Suraksha Sanhita, 2023 to the satisfaction of Sub-Divisional Judicial Magistrate, Manjhaul in connection with Khodawandpur P.S. Case No. 99 of 2024, subject to the conditions as laid down U/s 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.



9. So far as petitioner no.1 namely, Sunil Kumar @ Sunil Mahto and petitioner no.2 namely, Anil Mahto are concerned, this Court is not inclined to grant bail to them. Accordingly, the prayer for anticipatory bail of petitioner nos.1 & 2 are hereby rejected.

10. However, if petitioner nos.1 & 2 surrenders before the Trial Court within a period of 4 weeks from today then in that case, the Trial Court is directed to pass order on their surrender-cum-bail application on the same day acknowledging that there is case and counter case, without being prejudice that the anticipatory bail of the petitioner nos.1 & 2 has been rejected by this Court and the Trial Court shall pass order on the merit of this case.

(Dr. Anshuman, J)

Divyansh/-

U		T	
---	--	---	--

