

IN THE COURT OF THE SESSIONS JUDGE, SAHARSA  
**Anticipatory Bail Appl. No. 743/2022**

|                               |               |                    |
|-------------------------------|---------------|--------------------|
| 1. Sharwan Sah (Tanti)        |               |                    |
| 2. Sanjay Sah.....Petitioners | <i>Versus</i> | The State of Bihar |

**ORDER**

**10.11.2022:** Apprehending their arrest/detention in connection with Mahishi (Jalai O.P) P. S. Case No. 248/2021 dated 14.12.2021 for committing offence under Sections 341, 323, 307, 354-A, 379, 504/34 of the Indian Penal Code, this anticipatory bail application has been filed on behalf of above named two accused/petitioners pending in the Court of Ld. S.D.J.M, Saharsa which is pressed.

2. Heard Sri Rajeev Kumar Singh, learned defence counsel appearing on behalf of petitioners, Sri R. P. Yadav, Ld. P. P. for the State, Sri Amaranth Jha, Learned counsel on behalf of the informant and perused the case record including the case diary.

3. The case of the prosecution, as per written report of the informant, Ramdai Devi, in brief, is that on 11.12.2021 at about 2:00 PM (1) Sharwan Sah, (2) Sanjay Sah, (3) Shrikant Sah assaulted her son, Sushil Kumar by iron rod during playing due to which her son received head injury. On alarm she reached and found her son lying in a pool of blood. When she came to save her son. Accused persons, Sanjay Sah and Shrikant Sah assaulted her by iron rod because of this reason she also fell down and received injury. Accused-Shrawan Sah took out gold chain from his neck worth Rs. 1 lac. Accused-Sanjay Sah took out cash of Rs. 10,000/- which was kept inside her blouse. Thereafter, all accused persons assaulted her by legs and kicks due to which she became unconscious. Her relatives came and brought them to the PHC, Mahishi from where the injured persons were referred to the Sadar Hospital, Saharsa.

4. Learned counsel for the accused submitted that petitioners have not committed the offence as alleged in the FIR. Nothing has been recovered from the possession of the petitioners. Further urged that petitioner no.1 is a teacher posted at middle school, Samani and on the date of occurrence he was not present at the place of occurrence. Further submitted that charge-sheet has been submitted against accused persons, namely, Sanjay Sah and Shrikant Sah and case has not been found to be true against accused-Srikant Sah. Except allegation u/s 307 and 379 of IPC, remaining offences are bailable in nature. Cognizance has been taken against three accused persons including these petitioners. Moreover petitioner-Sanjay Sah has been given the benefit of Section 41-A Cr.PC. The simple injury has been found over the persons of the victims and petitioners bear one criminal history in which they are on bail. Therefore, they may be given the privilege of anticipatory bail.

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**Continued**

**10.11.2022 :**

5. Ld. P. P. for the State has opposed the prayer for bail and submitted that there is allegation of assault by iron rod against petitioners. The injury has been found to be simple in nature but out of three injuries, injury no.1 over right side of skull has been found on the person of Sushil Kumar, the son the informant. Accused-Sanjay Sah has been given the benefit of Section 41-A Cr.PC. Charge-sheet has been submitted against accused persons, Sanjay Sah and Srikant Sah. Cognizance has been taken against three accused persons, (1) Shrawan Sah, (2) Sanjay Sah and (3) Srikant Sah. The witnesses have supported the case of the prosecution in paragraph nos. 6, 7, 8 of the case diary. Therefore, they do not deserve anticipatory bail.

6. Learned counsel on behalf of the informant has opposed the prayer for anticipatory and has submitted that there is specific allegation of assault against these petitioners due to which the son of the informant sustained three injuries including one injury found on his skull. Therefore, they do not deserve anticipatory bail.

7. Considering the aforesaid facts and circumstances of the case, the allegation against the petitioners, this anticipatory bail application stands disposed of with an observation that if petitioners surrender before the learned lower court within four weeks from the receipt/production of the copy of this order, their regular bail application shall be heard and disposed of as per law without being prejudiced by this order.

Dictated & corrected by me.

Sd/-

Sessions Judge,