

IN THE COURT OF THE SESSIONS JUDGE, SAHARSA
Anticipatory Bail Appl. No. 744/ 2022

1. Md. Israil, 2. Md. Alam, 3. Md. Samsuddi, 4. Md. Kari @ Md. Sah Alam, 5. Md. Raja @ Md. Razaul.....petitioners	Versus	The State of Bihar
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Order

04.11.2022: Apprehending their arrest in connection with Sonbarsa-Raj P. S. Case No. 212/2022 dated 24.08.2022 registered for committing offence under Sections 147, 149, 341, 323, 307, 325, 379, 504 and 506/34 of the Indian Penal Code, this anticipatory bail application has been filed on behalf of five above named accused-petitioners pending in the court of Sri Abhimanyu Kumar, Ld. J.M 1st Class, Saharsa which is pressed.

2. Heard Sri Rabindra Prasad Singh, learned counsel of the petitioners, Sri R. P. Yadav, Ld. P. P. for the State and perused the case record including the case diary.

3. The prosecution case as per written report of informant-Upendra Sah, in brief, is that on 23.08.2022 at about 12:00 Noon (1) Md. Israil, (2) Md. Alam, (3) Md. Samsuddi, (4) Md. Kari, (5) Md. Raja armed with various weapons came near Mohanpur government school and started abusing his grandson-Mithilesh Sah. The miscreants assaulted, Mithilesh Sah by lathi, danda, spade. The informant also sustained injury in the scuffle. Accused-Md. Alam forcibly took out gold chain from Mithilesh Sah for a sum of Rs 50,000/-. Accused-Md. Israil forcibly took out cash of Rs. 5300/- from the pocket of Mithilesh Sah. The injured were admitted in the PHC, Sonbarsa from where they were referred to Sadar hospital Saharsa for better treatment.

4. It has been urged on behalf of the accused that they are quite innocent and have committed no offence and have falsely been implicated in this case due to land dispute and previous enmity and the allegation under sections 307, 379 of IPC are non-bailable in this case. There is no specific allegation of assault against any of the petitioners and allegation u/s 379 of IPC has not been found to be true in the supervision note. Further urged that petitioner no.2 has filed case against the informant and others bearing Sonbarsa-Raj P. S. Case No. 213/2022 for the same date of occurrence. The injury has been found to be simple in nature caused by hard and blunt substance and petitioners bear no criminal history. Therefore, they may be given the privilege of anticipatory bail.

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5. Ld. P. P. for the state has opposed the prayer for bail and submitted that although there is no specific allegation of assault and overt act against these petitioners but all accused persons assaulted the victims which find support from the injury report attached at page nos. 10 and 11 of the case diary shows that four injuries have been found on the person of the informant and his grandson-Mithilesh Sah. Although injury on Mithilesh Sah has been found to be simple in nature but injury no.2 is on head which is vital part of the body. The injury found on the person of Mithilesh Sah are to be lacerated wound over right cheek near right nose and injury no.2-lacerated wound over head. The injury found on the person of the informant-Upendra Sah are to be lacerated and swelling on right and left forearm and nature of injury has been kept reserved by the doctor. The witnesses in paragraph nos. 3, 8, 9 of the case diary have supported the case of the prosecution. The investigation is still going on therefore, petitioners do not deserve anticipatory bail.

6. Considering the aforesaid facts and circumstances of the case, the nature of allegation and the fact that investigation is still going on, this anticipatory bail application is disposed of with an observation that if the petitioners surrender before the learned lower court within 4 weeks from the receipt/production of the copy of this order passed by this Court in this anticipatory bail application, their regular bail application shall be considered on its own merit without being prejudiced by this order.

Dictated & corrected by me

Sd/-

Sessions Judge,