

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 40836 of 2020**

Arising Out of PS. Case No.-246 Year-2020 Thana- JOGAPATTI District- West Champaran

1. Sairun Khatoon @ Sairul Khatoon, about 50 years, Female Wife of Isha Mian.
2. Momtaz Mian @ Mumtaz Mian, about 30 years, Male Son of Isha Mian.
3. Aslam Mian, about 57 years, Male Son of Late Naresh Mian.
All residents of Village- Padraun, PS- Jogapatti, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Chandra Verma, Advocate
For the State	:	Mr. Mithlesh Kumar Khare, APP
For the Informant	:	Mr. Bashishth Narayan Mishra, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 24-09-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioners, which was allowed.

3. Heard Mr. Umesh Chandra Verma, learned counsel for the petitioners; Mr. Mithlesh Kumar Khare, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Bashishth Narayan Mishra, learned counsel for the informant.

4. The petitioners apprehend arrest in connection with Jogapatti PS Case No. 246 of 2020 dated 14.06.2020, instituted



under Sections 341, 323, 324, 307, 447, 354B, 379, 504 and 506/34 of the Indian Penal Code, 1860.

5. The allegation against the petitioners and seven others is of abusing the informant and also of assault on his wife and dragging her leading to her becoming semi-naked. Further, against some of the accused including petitioners no. 2 and 3, the allegation is that they had snatched the gold nose-pin and chain of the wife of the informant and in the process, the son of the informant also was assaulted.

6. Learned counsel for the petitioners submitted that the allegation of assault is general and omnibus on 10 persons, including the petitioners. It was submitted that though there is injury suffered by the informant which has been termed as grievous, but the same is the result of only one blow and, thus, the petitioners may be granted the indulgence of anticipatory bail. It was submitted that for the same incident, there is also a counter case and injury has been suffered on the side of the petitioners also. Learned counsel submitted that the petitioner no. 1, at least, may be considered for grant of anticipatory bail as she is a lady and it cannot be expected that when nine other male members are assaulting, she would also participate in such assault. Further, it was submitted that the allegation of snatching of gold nose-pin



and chain of the informant's wife, is cosmetic in nature. Learned counsel submitted that the parties being next door neighbours, there may have been some scuffle but the same has been blown out of proportion and unfortunately, the informant has received head injury and there has been injury on the side of the petitioners also.

7. Learned APP and learned counsel for the informant submitted that the petitioners were very much party to the assault and the injury is grievous and life threatening.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the seriousness of the injury suffered by the informant, the Court, at this stage, would not go into the detail of whether it was the petitioners who had assaulted or not. Thus, the Court is not inclined to grant pre-arrest bail to petitioners no. 2 and 3 namely, Momtaz Mian @ Mumtaz Mian and Aslam Mian, respectively and accordingly, the petition on their behalf is rejected.

9. However, in view of petitioner no. 1 namely, Sairun Khatoon @ Sairul Khatoon, being a lady and the allegation being that she along with nine other male members had assaulted the informant, since, under normal circumstances, it cannot be expected that when nine male members are assaulting, she would



also have participated in the assault on the informant and further, from the tenor of the FIR, there appears to be merit in the submission of learned counsel for the petitioners, that the allegation that they had snatched the gold nose-pin and chain may also be cosmetic in nature, the Court is inclined to allow the prayer for bail of petitioner no. 1, namely, Sairun Khatoon @ Sairul Khatoon.

10. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 1, namely, Sairun Khatoon @ Sairul Khatoon be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, West Champaran at Bettiah in Jogapatti PS Case No. 246 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner no. 1, (ii) that the petitioner no. 1 and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner no. 1 and (iii) that the petitioner no. 1 shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions



of the bonds or the undertaking or failure to co-operate shall lead to cancellation of her bail bonds.

11. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner no. 1, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner no. 1.

12. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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