

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37743 of 2014

Arising Out of PS.Case No. -215 Year- 2013 Thana -KHIJARSARAI District- GAYA

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Omkar Singh @ Umkar Singh @ Omkar son of Mittal Singh @ Mithilesh Singh, resident of Village Dema Fatehpur, P.S. Khijarsarai, District Gaya

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL ORDER

2 01-04-2015 Heard learned counsel for the petitioner and learned Special P.P. for the State.

The petitioner apprehends arrest in Khizersarai P.S. Case No. 215 of 2013 dated 15.10.2013 instituted under Sections 147/448/341/323/325/504/314 of the Indian Penal Code and 3(1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Act').

Learned counsel for the petitioner submits that as per the plain reading of the F.I.R. itself the allegation under the said Act cannot be fastened on the petitioner and further that with regard to the general and omnibus allegation of assault, the



specific allegation against the petitioner is of having assaulted one Sajan Manjhi, nephew of the informant, along with another co-accused with 'lathi'. It is submitted that even Section 314 of the Indian Penal Code is not applicable in the present case as the allegation of hitting on the stomach of the woman is against another co-accused and not the petitioner. Learned counsel submits that at best the allegation against the petitioner could be under Sections 323 and 325 of the Indian Penal Code, both being bailable but with regard to the other sections, he cannot be held liable. It is further submitted that the petitioner has been unnecessarily harassed having no criminal antecedent.

Learned Special P.P. opposes the prayer for anticipatory bail.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya in Khizersarai P.S. Case No. 215 of 2013, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

The petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner. The petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the trial and be present before the Court on each and every date. Failure to cooperate or appear on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

(Ahsanuddin Amanullah, J)

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