

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22978 of 2015

Arising Out of PS.Case No. -3 Year- 2015 Thana -HABIBPUR District- BHAGALPUR

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Alok Singh. Son of Dilip Singh

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate

For the Opposite Party/s : Mr. Ambika Bhagat (Spl.App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 17-12-2015 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner is apprehending arrest in a case registered
for the offences punishable under Sections 341, 323, 324, 506/34
of the Indian Penal Code and 3(1) (x) of the S.C./S.T.(Prevention
of Atrocities) Act.

Prosecution case is the 'fardbeyan' of Pradeep Das
was recorded on 19.12.2014 at 4 P.M. at Jawahar Lal Medical
College and Hospital, Bhagalpur to the effect that the she-goat of
co-villager Jeeva Das was stolen when the mother of the informant
complained to Nutan Devi that her son and Sunny Kumar stolen
the she-goat, consequently, Nutal Devi and her husband abused
the informant by calling caste name and threatened to dire
consequence. Aggrieved with the complain, made by the



informant, in the same evening on 17.12.2014, the accused Chandan Kumar and Kundan Kumar caught hold the brother of the informant Rinku Kumar and abused by calling caste name but the brother of the informant escaped from the scene. On 18.12.2014 at 10.30, the informant was going to the market to purchase medicine, then the petitioner Alok Kumar calling caste name and abused him by ordered to assault informant with dagger, in the meantime Chandan Kumar and Kundan Kumar surrounded and pierced dagger in his abdomen. Thereafter, the co-villagers and the family members took the informant to the hospital leading to the registration of the F.I.R.

It is submitted by learned counsel for the petitioner the accusation of overt-act has not been alleged by the petitioner, the offence under provisions of the SC/ST Act has not been committed in public view. Hence, no offence under section 3(1) (x) of the SC/ST Act has been made out. There is no injury report on record which goes to suggest that informant has not sustained any injury, statement to that effect made in para-16 which is as follows :-

"That the surprising factor of this case is that till today the injury report of the informant if any could not be brought on record which would be evident from the impugned

order also and this circumstances clearly goes to suggest that the informant has not sustained any short of injury."

Though, it is orally submitted by the learned counsel for the petitioner that the simple injury ahs been caused to the informant.

The matter has been initially heard by a co-ordinate Bench of this court on 10.04.2015 but since the anticipatory bail application of Chandan Kumar and Kundan Kumar were heard and disposed of by this court vide Cr. Misc. No.14724/2015, the matter has been listed before this court in view of the administrative order of Hon'ble the Acting Chief Justice dated 07.08.2015 which is the flag-A, Chandan Kumar and Kundan Kumar were granted provisional bail on the submission of the counsel for the petitioner, Mr. Vivekanand Vivek, that for the occurrence of 17.12.2014, the F.I.R. has been registered on 18.12.2014 and no injury was caused to the informant, statement to that effect has been made in para-8 of Criminal Miscellaneous No.14724/2015 which reads as follows:-

"8. That there is no specific allegation against the petitioners whereas omnibus allegation. FIR was registered after delay of twenty days which makes the case doubtful and suspicious. Moreover, no injuries have been caused to him."

The above statement appears to be contrary to the facts on record to the extent that the F.I.R. was registered after twenty days of the occurrence.

The provisional bail of Chandan Kumar and Kundan Kumar was directed to be confirmed by learned court below only if no injury has actually been caused to the informant, otherwise the petitioner were directed to surrender and prefer regular bail.

Since the counsel for the petitioner, Mr. Alok Singh, has submitted that simple injury has been caused to the informant, let the learned court below to transmit a report to this court within a period of three weeks after going through the records/case diary as to whether injury has been caused to the informant or not and if caused then what is the nature of injury caused. It is also expected by learned court below to apprise this court about any order being passed in pursuance to the order dated 10.04.2015 passed by this court in Criminal Miscellaneous No.14724/2015.

Now considering the case of Alok Singh since this petitioner has abused the informant on a public road and co-accused Chandan Kumar and Kundan Kumar pierced dagger in the abdomen of the informant on the order of this petitioner, this court is not inclined to grant anticipatory bail to the petitioner. However, let the learned court below consider the prayer of regular bail

application of the petitioner without being prejudiced by the order of this court, if the petitioner surrenders within the period of six weeks.

Accordingly, the application is, disposed of.

Let a copy of this order be transmitted to the learned Judicial Magistrate-1st Class, Bhagalpur where the Habibpur P.S. Case No.3/2015 is pending. It is expected that the learned court below will get a copy of this order served on the counsel appearing before the learned court below on behalf of the accused Chandan Kumar and Kundan Kumar.

Put up Criminal Miscellaneous No.14724/2015 on 11th January, 2016 under the heading "To Be Mentioned".

(Dinesh Kumar Singh, J)

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