

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11723 of 2015

Arising Out of PS.Case No. -589 Year- 2013 Thana -SAHARSA District- SAHARSA

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1. Bibhuti Singh @ Babloo son of Raju Singh Resident of village/mohalla - Vidyapati Nagar, in front of Zila Niyojnalya, Police Station and District - Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh

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

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

02/ 28.04.2015 Heard learned counsel for the petitioner as well as learned
Special Public Prosecutor for the State.

Informant filed complaint case on 8.3.2013 which was converted into police case and accordingly, first information report was lodged under sections 323, 341, 380, 452 448/34 of the Indian Penal Code, 27 of the Arms Act and section 3 (I) (X) of the SC/ST (Prevention of Atrocities)Act.

The contention on behalf of the petitioner is that the present case has been filed by the informant with mala fide intention and, as a matter of fact, no such occurrence, as alleged, in the first information report has ever taken place. It is pointed out by him that on 31.12.2012 petitioner was badly assaulted by son of the informant of the present case and having sustained dagger injury, he got admitted in the hospital where his fardbeyan was recorded on the day of the occurrence and Saharsa Sadar P.S. Case no. 733/2012 was registered against son of the informant. It is further contended by him

that in retaliation to put pressure upon the petitioner, informant lodged the present case after three months of alleged occurrence. It is also pointed out by him that moreover, both parties have amicably settled their dispute and compromise petition has already been filed before the Chief Judicial Magistrate, Saharsa.

Section 18 of SC/ST (Prevention of Atrocities) Act restricts to entertain petition filed under section 438 of the Cr.P.C but the aforesaid provision is applicable only in the case where first information report constitutes an offence under the provision of SC/ST (Prevention of Atrocities) Act and section 18 of the SC/ST (Prevention of Atrocities) Act does not come in the way of entertaining a petition under section 438 of the Cr.P.C, if the case has been lodged with mala fide intention.

In the present case, learned counsel for the petitioner appears to have succeeded to demonstrate, at least, this fact that present case has been lodged with mala fide intention.

Accordingly, this anticipatory bail petition is allowed and it is ordered that in the event of arrest/ surrender within four weeks from the date of receipt of this order to the concerned court, let the petitioner be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of Sri P.K.Jha, Judicial Magistrate, Ist Class, Saharsa/concerned court in Saharsa P.S. Case no. 589/2013 subject to condition as laid down under section 438(2) of the Cr.P.C.

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(Hemant Kumar Srivastava,J)