

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10841 of 2015

Arising Out of PS.Case No. -37 Year- 2014 Thana -SAHKUND District- BHAGALPUR

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Umesh Sah son of Mahadeo Sah, resident of Village - Bariyarpur, Police
Station - Shahkund, District - Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Syed Masleh-Uddin Ashraf, Advocate

For the Opposite Party/s : Mr. Surendra Pd.Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 25-05-2015

Heard the parties.

The petitioner seeks bail in a criminal prosecution registered under Section 307 and some other allied offences of the Indian Penal Code.

It is submitted that while the petitioner was having quarrel with his wife, injured Manju Devi came to intervene and pacify the dispute, whereafter the petitioner is alleged to have assaulted her by Dabiya, as a result of which she sustained injury on her vital part of the body.

Learned counsel has submitted that the petitioner had no mens rea to commit the crime in question and the occurrence in question had taken place at the spur of the moment. Therefore, no offence under Section 307 of the Indian Penal Code is made out. It is also contended that the petitioner is HIV positive patient and he is in judicial custody since 11.11.2014.

Taking into consideration the aforesaid facts and circumstances, the prayer for bail of the petitioner is allowed. The above named petitioner is ordered to be released on bail on

furnishing bail bond of Rs.25,000/-(Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhagalpur, in connection with Shahkund P.S.Case No. 37 of 2014, subject to the following conditions:

(A) one of the bailors must be a government servant or close family member or close relation of the petitioner who will file an affidavit in the court below showing his/her relationship with the petitioner,

(B) if the petitioner is found involved in same and similar nature of cases in future, then in that case, the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the petitioner, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned, and

(C) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every dates, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Prasad Verma, J)

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