

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45337 of 2014

Arising Out of PS.Case No. -5 Year- 2014 Thana -JOKIHAT District- ARRARIA

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Md. Nasim S/o Ekram Resident of Village-Kakan, P.S.-Jokihat, District-Araria.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rama Nand Poddar, Advocate

For the Opposite Party/s : Md. Arif, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 04-05-2016

Heard learned counsel for the parties.

The petitioner seeks bail in Jokihat P.S. Case No. 5 of 2014 dated 03.01.2014 instituted under Sections 147/ 148/ 149/ 323/ 341/324/307/379/504 of the Indian Penal Code.

This is the second attempt of the petitioner for bail as earlier such prayer was rejected by order dated 31.07.2014 passed in Cr. Misc. No. 20866 of 2014.

Learned counsel for the petitioner submits that though earlier the prayer was rejected on merit but the only intervening circumstances is that the counter case filed on behalf of the petitioner's side has, after investigation, been found to be true. It is submitted that the dispute basically relates to a boundary wall between neighbours. He submits that he has also suffered grievous injury as the attack was by '*farsa*' on the head and due to providence,

he was saved but portion of his right ear was cut off. He further submits that the incident occurred on the spur of the moment without there being any premeditation, muchless intention to kill anybody. It is submitted that the petitioner, having clean antecedent, is in custody since 04.01.2014.

Learned A.P.P. for the State, who was earlier directed to obtain the copy of the case diary, both in the present case and the counter case, submits that upon going through the same it appears that both the cases have been found to be true. He does not dispute that the genesis of the incident relates to building of boundary wall between neighbours and that it cannot be said that it was premeditated and rather the incident occurred on the spur of the moment.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, let 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 A.C.J.M., Araria in Jokihat P.S. Case No. 5 of 2014.

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 do so shall also lead to cancellation of his bail bonds.

Earlier, on the basis of submission made on behalf of learned counsel for the petitioner that in the counter case his statement is said to have been recorded by the police on the date and time when the petitioner was in judicial custody, the Court was persuaded to call for a report from the Superintendent of Police, Araria. Learned A.P.P. submits that the same has been received which shows that there were lapses on the part of the Investigating Officer for which departmental proceeding has been started under Proceeding No. 17 of 2016. The Court hopes that the same would be taken to its logical conclusion in right earnest and spirit expeditiously.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	