

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44512 of 2015

Arising Out of PS.Case No. -168 Year- 2015 Thana -VAISHALI District- VAISHALI(HAJIPUR)

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Md. Ehshan @ Mister, s/o Md. Akhtar, Resident of Village – Alhadadpur
Shikh Tola Bariyari, P.S. Vaishali, District- Vaishali

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali

For the informant : Mr. Md. Anis akhtar

For the State : Ms. Gulnar Begum(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 27-01-2016 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner is apprehending his arrest in connection with Vaishali P.S. Case No. 168 of 2015, registered for offences punishable under Sections 147, 148, 149, 323, 324, 341, 447 ,448, 427, 354, 307, 504 and 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that though there is an allegation against the petitioner that he had attacked one lady, namely, Rahattara as a result of which, she had sustained injuries on her head, the petitioner cannot be held guilty for the same as after the lady fell down, the brother of the informant had dragged her by her legs and taken her out from the place of occurrence, which resulted in aforementioned injury.

Learned counsel for the informant, however, submits that there was a clear intention of causing serious harm and the injury on the person of the said Rahattara clearly showed that there were

repetition of blows and the injury caused thereon was life threatening, which constitutes a grievous injury.

To counter the submissions of learned counsel for the informant, learned counsel for the petitioner submits that had the petitioner wanted to do her in and kill her, there was no intervening circumstance which could have prevented him in doing so but since there was no intention to kill her and the occurrence took place on the spur of the moment. He further submits that there was case and counter case between the parties and in the altercation both the parties have sustained injuries. It has further been submitted that except the petitioner, all other co-accused have been extended the privilege of anticipatory bail and thus the petitioner may be granted the benefit of anticipatory bail.

It appears from the perusal of the F.I.R that both the parties had indeed clashed leading to severe injuries on both sides. It is also not a disputed fact that the petitioner as well as the informant side are closely related to each other as the informant in the present case is the father in law of the petitioner's elder brother. Further the petitioner has a criminal history in which he has been extended the privilege of anticipatory bail and that in other cases, the statement of the informant that he has a criminal antecedent, he has already been acquitted in those cases. Considering the aforementioned facts and circumstances, let the petitioner above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date

of receipt/production of a copy of this order, be enlarged on bail on furnishing bond of Rs. 10,000 (Rs. Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate., Vaishali in connection with Vaishali P.S. Case No. 168 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It is made clear that the petitioner shall at all material times be present during the course of investigation as well as trial and on default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

It is also made clear that one of the bailors of the petitioner shall be his father.

(Anjana Mishra, J)

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