

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43173 of 2016

Arising Out of PS.Case No. -158 Year- 2016 Thana -JOKIHAT District- ARRARIA

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1. Alimuddin @ Md. Alimuddin S/o- Late Karim Bux,
2. Shahnawaz S/o- Alimuddin @ Md. Alimuddin,
3. Hasim S/o- Safique,
4. Ali Hassan @ Ali Hasan S/o- Hafizuddin,
5. Md. Shamim S/o- Hafizuddin, All are resident of Village- Bagmara, 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. Nafisuzzoha, Adv.

For the Opposite Party/s : Mr. Aditya Narayan Singh 1, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

1 05-10-2016 Heard the parties.

The petitioners, five in number, apprehend their arrest in a criminal prosecution registered under Sections 307, 379, 354-B, 325 and some other allied offences under the Indian Penal Code.

The learned counsel appearing on behalf of the petitioners submits that there are case and counter case from both sides with respect to the same occurrence. It is further submitted that entire occurrence has taken place on account of election dispute between the parties. It is also highlighted that though, there is specific allegation of assault against petitioner no.1- Alimuddin @ Md. Alimuddin and the petitioner no. 4- Ali Hassan @ Ali Hasan, but there is no such allegation against the others viz petitioner no. 2- Shahnawaz, the petitioner no. 3- Hasim and the petitioner no.5- Md. Shamim.

The learned Additional Public Prosecutor appearing on behalf of the State though has opposed the prayer for anticipatory bail, but has not been able to dispute the aforesaid submissions made on behalf of the petitioners.

Taking into consideration the fact that the petitioner

no.1- Alimuddin @ Md. Alimuddin is alleged to have assaulted the informant by *farsa* and the petitioner no. 4- Ali Hassan @ Ali Hasan is alleged to have assaulted one Minhaz by sword on their vital part of the body, this Court is not inclined to accede to the prayer made on their behalf for grant of anticipatory bail. Accordingly, their prayer for grant of anticipatory bail, in connection with Jokihat P.S. Case No. 158 of 2016, pending in the court of the learned Sub-Divisional Judicial Magistrate, Araria, is rejected.

However, if the above named petitioner no.1- Alimuddin @ Md. Alimuddin and petitioner no.4- Ali Hassan @ Ali Hasan surrender in the court below within a period of four weeks from today and apply for regular bail, then the same shall be considered and decided on its own merit without being prejudiced by rejection of their prayer for anticipatory bail made in the present application.

As per the prosecution case, so far the petitioner no.2- Shahnawaz, the petitioner no. 3- Hasim and the petitioner no. 5- Md. Shamim are concerned, the allegations against them are general and omnibus in nature, though they are also alleged to have made assault, but they have not caused any specific injury upon any person. They are also said to be the first offenders.

In above view of the matter, the prayer for anticipatory bail made on behalf of the petitioner no.2- Shahnawaz, the petitioner no. 3- Hasim and the petitioner no. 5- Md. Shamim is allowed.

In the event of their arrest or surrender in the Court below within a period of four weeks from today, let the petitioner no.2- Shahnawaz, the petitioner no. 3- Hasim and the petitioner no. 5- Md. Shamim be enlarged on bail on furnishing bail-bonds of Rs. 25,000/- each with two sureties of the like amount each to

the satisfaction of the learned Sub-Divisional Judicial Magistrate, Araria in connection with Jokihat P.S. Case No. 158 of 2016, subject to the conditions laid down under Section 438(2) Cr.P.C and subject to the further conditions that:

- (A). One of the bailors must be government servant or close family member of the petitioners, who will file an affidavit in the Court below showing his relationship with the aforesaid petitioners,
- (B). if the petitioners are 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 the bail-bond of the petitioners, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving an opportunity of hearing to all concerned and
- (C). the petitioners shall make regular pairvi in the court below in the present case either by appearing themselves in person or through representation by their lawyer on each and every dates, and if on two consecutive dates petitioners fail to make pairvi, then the court below shall be at liberty to cancel the bail bonds of the petitioners.

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(Birendra Prasad Verma, J)

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