

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2904 of 2016

Arising Out of PS.Case No. -238 Year- 2014 Thana -KHODAWANPUR District- BEGUSARAI

- =====
1. Asfaque Mian @ Md. Asfaque Ali
 2. Chhotan Mian @ Md. Ansar Ali Both are Sons of Md. Kalim Sah
 3. Md. Kalim Sah @ Kalim Sah Mian Son of Late Ali Jaan Sah All are resident of village - Amari Dih, P.S. Khodawandpur (Chhaurahi), District - Begusarai

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ambika Bhagat

For the Opposite Party/s : Mr. Anant Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 19-01-2016

Heard learned counsel for the petitioner and the state.

The petitioner is apprehending arrest in Khodawandpur (Chhaurahi OP) P.S. Case No. 238 of 2014 pending in the court of the learned JM Ist Class, Manjhaul, Begusarai registered for the offences punishable under sections 323,379 and 354/34 IPC.

The prosecution case is that the accused persons assaulted the minor son of the informant, on protest being made the accused persons also assaulted the informant and snatched jewellery and pulled the clothes of the informant.

It is submitted that the petitioner that during investigation, the case was found true under sections 341,342 and

504 IPC and the petitioner was granted police bail but subsequently on 23.1.2015 cognizance was also taken under sections 379 and 354 IPC. Statements to that effect have been made in paragraphs 10 and 11 of the petition.

Considering the fact that the petitioner was on police bail, the present anticipatory bail application is not maintainable in view of the ratio laid down in the case of Bishundeo Sah Vs. State of Bihar, reported in 2011(1) PLJR 731.

Let the learned court below consider the prayer of the petitioner for regular bail in view of the ratio laid down in the case of Mahendra Pd. Singh Vs. State of Bihar 2004(3) PLJR 491. However, it is made clear that in such circumstances bail can only be denied in case of misuse of police bail.

This application is disposed of with the aforesaid observations.

(Dinesh Kumar Singh, J)

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