

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44961 of 2016

Arising Out of PS.Case No. -79 Year- 2016 Thana -PALIGANJ District- PATNA

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Gajendra Sharma @ Gajendra Kumar son of Matukdhari Singh Resident of Village-
Fatehpur, P.S.- Paliganj, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
For the Opposite Party/s : Dr. Ajeet Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 18-10-2016

Heard learned counsel for the parties.

The petitioner seeks pre-arrest bail in connection with
Paliganj P.S. Case No. 79 of 2016 dated 04.05.2016 instituted under
Sections 147/148/149/341/323/307 of the Indian Penal Code and 27 of
the Arms Act.

The allegation against the petitioner, along with seven
others, is of general and omnibus assault and specifically against the
petitioner of having fired from rooftop causing injury on the forehead
of the uncle of the informant.

Learned counsel for the petitioner submits that there is
dispute between the parties as the grandfather of the informant had
executed a 10 years lease of a piece of land in favour of the mother of



co-accused Niraj Kumar, but the informant's side wanted forcible possession prior to the period of lease ending, resulting in tension and skirmish between the two sides. It is submitted that the allegation of firing is concocted as even the seizure list discloses that two empty cartridges have been recovered, but near the poultry farm, on the road, of co-accused Niraj Kumar whereas the specific allegation in the *fardbeyan* is that the petitioner fired from the rooftop. It is further submitted that the injury on the uncle of the informant is only abrasion on the forehead, caused by hard blunt substance, which absolutely falsifies the story of firearm injury on the forehead. Learned counsel submits that a simple fight for forcible recovery of land from the side of the informant has been given the colour of there being aggression from the side of the petitioner and also firing by the petitioner, which is totally false and fabricated.

Learned A.P.P. opposes the prayer for anticipatory bail and submits that there is allegation of firing against the petitioner. However, he is not in a position to controvert that only abrasion has been found in the injury report which does not support the allegation of firing.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the court below within six weeks from today, 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 Sub Divisional Judicial Magistrate, Danapur in Paliganj P.S. Case No. 79 of 2016, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

Further, 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.

(Ahsanuddin Amanullah, J)

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