

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.44038 of 2016**

Arising Out of PS.Case No. -66 Year- 2016 Thana -RAJGIR District- NALANDA  
(BIHARSHARIFF)

Surendra Sah Son of Late Mitti Sah Resident of Village-Panditpur, P.S. Rajgir,  
District Nalanda

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Pankaj Kumar, Advocate  
For the State : Mrs. R. Ratnakar, APP  
For the Informant : Mr. Sudhir Kumar Upadhyaya, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 17-10-2016**

Heard learned counsel for the petitioner, learned A.P.P.  
for the State and learned counsel for the informant, who has *suo motu*  
appeared.

The petitioner seeks pre-arrest bail in Rajgir P.S. Case  
No. 66 of 2016 dated 06.04.2016 instituted under Sections  
147/148/149/323/307/504/506 of the Indian Penal Code.

The allegation against the petitioner and four other co-  
accused is of assault by hard blunt substance including axe, causing  
grievous injury on the informant.



Learned counsel for the petitioner submits that there is general and omnibus allegation of assault and against the petitioner it is specific, by axe. However, it is submitted that the injury report does not disclose any injury which can be attributed to axe and even the injury on the head can, at best, be attributed to co-accused Rahul Kumar who is said to have inflicted blow on the head by iron rod. Learned counsel has also produced web copy of order dated 20.08.2016 passed by a co-ordinate Bench in Cr. Misc. No. 33043 of 2016 by which co-accused Rahul Kumar and Sonu Kumar have been granted anticipatory bail.

Learned A.P.P. and learned counsel for the informant oppose the prayer for anticipatory bail. It is submitted that the petitioner has not come with clean hands inasmuch as he has suppressed the second injury report which is referred in the order of the court below dated 26.08.2016 which discloses that injury on the head was grievous in nature as the left temporal bone had been found to be fractured in C.T. Scan.

Having considered the rival contentions, the Court finds substance in the submissions of learned A.P.P. and learned counsel for the informant. It was the duty of the petitioner to bring on record the second injury report and then arguments could have been advanced explaining his non-involvement with regard to inflicting the

said blow. Further, in the order passed by a co-ordinate Bench, in the case of Rahul Kumar and Sonu Kumar, it does not appear that such fact was brought to the notice of the Court, despite there being specific allegation against Rahul Kumar of inflicting blow on the head and second injury report disclosing fracture of left temporal bone which obviously is a grievous injury on a vital part. Thus, there has been suppression of fact before the said co-ordinate Bench also. Moreover, there is allegation of general assault against the petitioner and at this stage, the Court would not go into the aspect as to which injury was inflicted by which accused.

For the reasons aforesaid, the Court is not inclined to enlarge the petitioner on anticipatory bail.

The application, accordingly, stands dismissed.

**(Ahsanuddin Amanullah, J)**

Anjani/-

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