

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31840 of 2017

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1. Md. Sahir, Son of Md. Albawat, Resident of Village – Sandhuari, P.S. Sadar Hajipur, P.O. Hajipur, District – Vaishali.
 2. Md. Naushad, Son of Md. Jebbar, Resident of Village – Sandhuari, P.S. Sadar Hajipur, P.O. Hajipur, District – Vaishali.
 3. Md. Jabbar, Son of Md. Vakil, Resident of Village – Sandhuari, P.S. Sadar Hajipur, P.O. Hajipur, District – Vaishali.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Kumar Jain, Advocate
Mr. Anil Kumar Sinha, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

04// 01-11-2017

The present application has been preferred for modification of the order dated 21.06.2017 passed in Cr. Misc. No. 47875 of 2016 which was permitted to be withdrawn. The said application was filed with a prayer for anticipatory bail on behalf of three petitioners namely, Md. Sahir, Md. Naushad and Md. Jabbar in connection with Hajipur Sadar P.S. Case No. 132 of 2015.

It is submitted by learned counsel for the petitioners that for withdrawal of the application with regard to petitioner no.3 Md. Jabbar a slip was filed on 21.06.2017 but it appears that due to inadvertence the application with regard to all the three petitioners was permitted to be withdrawn. The



order dated 21.06.2017 reads as follows:-

“Since the petitioners have been arrested, learned counsel for the petitioners seeks permission to withdraw the present application filed with a prayer for anticipatory bail in connection with Hajipur Sadar P.S., Case No. 132 of 2015 pending in the court of learned CJM, Hajipur at Vaishali.

Permission is accorded.

Accordingly, the present application is dismissed as withdrawn.”

Considering the fact and examining the records, this Court finds that the slip was filed only for withdrawal of application with regard to petitioner no. 3 Md. Jabbar but by inadvertence the application with regard to all the three petitioners was permitted to be withdrawn. In the circumstances, the order dated 21.06.2017 passed in Cr. Misc. No. 47875 of 2016 is modified to the extent that Cr. Misc. No. 47875 of 2016 was permitted to be withdrawn with regard to petitioner no. 3 Md. Jabbar only.

Accordingly, this modification application is disposed of.

Cr. Misc. No. 47875 of 2016

The petitioners Md. Sahir and Md. Naushad



preferred the aforesaid criminal miscellaneous application with a prayer for anticipatory bail in connection with Hajipur Sadar P.S. Case No. 132 of 2015 registered for the offences punishable under Sections 147, 148, 149, 452, 504, 506, 364, 427, 380, 307, 302, 324 and 326 of the Indian Penal Code.

The prosecution case as per the fard-beyan of Ram Naresh Rai, S/o Kishun Rai, is to the effect that on 21.03.2015 at 7.00 P.M., seven motorcycle born miscreants came and tried to locate the house of Sanjeev Kumar @ Putul and thereafter they went back. After half an hour 65-70 persons variously armed along with ten ladies having stones, pieces of bricks came, surrounded the house of the informant and started pelting stones. In the meantime, son of the informant, Sanjeev Kumar @ Putul came out from the house, he was caught hold by the accused persons and assaulted. Another son of the informant namely, Kumkum Patel came to rescue, then accused persons also assaulted him by sharp edge weapon who received seven injuries. Out of fear, the informant went inside the house and saw that miscreants cutting the neck of his son and dragged him towards east. The miscreants also damaged the household articles and they made an attempt to kidnap the daughter-in-law of the informant and ultimately took away the daughter-in-law



Chandani Khatoon and son Sanjeev Kumar @ Putul in injured condition.

It is submitted by learned counsel for the petitioners that the son of the informant namely, Sanjeev Kumar @ Putul performed love marriage with Chandani Khatoon, for which a case was lodged against the son of informant Sanjeev Kumar @ Putul. The conduct of the son of the informant was not liked by the Azaz and others, as a result in retaliatory measure Azaz and villagers killed the son of the informant. Subsequently, statement of Chandani Khatoon, wife of the deceased was recorded under Section 164 Cr.P.C., as contained in Annexure-2, wherein she named ten persons but she has not named the petitioners. The accusation is omnibus and general against the mob when only one sharp cut injury on the neck of the victim Sanjeev Kumar @ Putul was found and considering the commission of offence in the background of retaliatory measure against the inter community love marriage, co-accused Sameena Khatoon, Md. Saukat Ali @ Md. Sokat Ali, Md. Sahzad, Md. Chand and Md. Sahid @ Sahim have been granted regular bail vide Cr. Misc. Nos. 24149 of 2015 and 38606 of 2015, whereas co-accused Md. Madin @ Madin, Md. Azad, Md. Moklish @ Md. Mokis, Md. Javed, Md. Abed @ Abed @ Abid, Md. Alam,



Md. Govinda, Md. Sonu, Md. Afgan, Md. Halim, Md. Khurshid @ Md. Kursid, Md. Munna and Md. Shamsheer have been granted anticipatory bail vide Cr. Misc. Nos. 30919 of 2015, 43038 of 2015, 43714 of 2015 and 50396 of 2015.

Considering the fact that the petitioners have not been named by the wife of the victim in her statement under Section 164 of the Code of Criminal Procedure who was throughout with her husband during assault and the accusation being omnibus and general coupled with the statement made in paragraph 3 of the main petition that the petitioners have no criminal antecedent, let the above named petitioner nos. 1 and 2 namely, Md. Sahir and Md. Naushad be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Hajipur Sadar P.S. Case No. 132 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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