

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Miscellaneous No.54856 of 2018**

Arising Out of PS.Case No. -238 Year- 2018 Thana -MAJHAULIA District-
WESTCHAMPARAN(BETTIAH)

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1. Bhola Mian @ Bhola Ansari S/o Mansoor Mian, R/o Ward No. 8,
Kadamwa Tola, Puraina, P.O.- Sundargawari, P.S.- Majhauria, District-
West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 28-09-2018

Heard learned counsel for the petitioner as well as
learned APP.

2. Petitioner along with eleven named persons
including large number of unknown persons have been arrayed as
accused at the behest of informant, police official with an
allegation that during course of removal of motorcycle from the
road causing inconvenience to the passersby, an altercation took
place which was transformed as a mob which indulged in physical
violence against the police personnel without having specific
allegation, having no criminal antecedents. Furthermore, other
named co-accused have already been granted anticipatory bail vide
Cr. Misc. Nos. 49019/2018 and 51699/2018.

3. That being so, petitioner, Bhola Mian @ Bhola
Ansari is directed to be released on bail in the event of his arrest
/surrender before the learned lower court within fortnight on



furnishing bail bonds of Rs.10,000/-(ten thousand) with two sureties of the like amount each, to the satisfaction of Chief Judicial Magistrate, Bettiah, West Champaran in connection with Majhauria PS Case No. 238/2018 in terms of condition as laid down under Section 438(2) Cr.P.C. along with terms and condition whatsoever inflicted at the present moment will be subject to outcome of *Sushila Aggarwal v. State of (NCT of Delhi) as reported in (2018) 7 SCC 731* which has been referred to Larger Bench on the following issues:-

“12. In the light of the conflicting views of the different Benches of varying strength, we are of the opinion that the legal position needs to be authoritatively settled in clear and unambiguous terms. Therefore, we refer the following questions for consideration by a larger Bench :-

(1) Whether the protection granted to a person under [Section 438](#) CrPC should be limited to a fixed period so as to enable the person to surrender before the Trial Court and seek regular bail.

(2) Whether the life of an anticipatory bail should end at the time and stage when the accused is summoned by the court.

(Aditya Kumar Trivedi, J)

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