

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.149 of 2018

Arising Out of PS.Case No. -286 Year- 2017 Thana -BAKHTIARPUR District- SAHARSA

=====

Umesh Mehta, Son of Bindeshwari Mehta, resident of Village Hussain Chak, P.S. Bakhtiyarpur, District- Saharsa.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Singh
For the Opposite Party/s : Mr. Sri Parmeshwar Mehta, APP
For the Informant : Mr.Manish Lal Das, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 11-01-2018 Heard learned counsel for the petitioner and learned APP for the State as well as learned counsel representing the informant.

The petitioner, in the present case, is seeking regular bail in connection with Bakhtiyarpur P.S. Case No.286 of 2017, registered for offences alleged under Sections 147, 148, 149, 341, 307, 324, 427, 504 and 506 of the Indian Penal Code.

The First Information Report in the present case has been lodged on 21.08.2017 for the occurrence which took place on 23.05.2017. It appears that earlier a Complaint Case No.903 of 2017 was filed by the present informant in the court of learned Chief Judicial Magistrate, Saharsa which was referred to the



police for institution of FIR at pre-cognizance stage under Section 156(3) Cr.P.C. The complaint case was filed on 26.07.2017 i.e. after two months three days from the date of the alleged occurrence.

As per the FIR, the informant and the petitioner are co-villagers and they had a fight over plucking of vegetables and admittedly it was a result of a land dispute. It is alleged in the FIR that the accused persons surrounded the informant, abused him and attacked as they are said to be the miscreant kind of people of the village. In the FIR, there are allegations of assault against the accused persons, so far as the allegation against the present petitioner is concerned, it is alleged that he had assaulted the informant by iron hammer (Hathaura) on the right side of head and right side of his jaw repeatedly which caused injury. The other accused persons have also assaulted the informant. It is alleged that the four teeth of the informant were broken as a result of the assault given by this petitioner.

The informant was referred to PMCH from where, considering his serious condition, he was sent to Paras hospital where he was treated and could be saved. It is further alleged that the informant was not able to speak and the police could not record his statement because of his condition but when he went to



Bakhtiyarpur Police Station, he was able to file a case in the Court. It is only thereafter the complaint case was filed which was referred to police and the present case has been instituted.

Learned counsel for the petitioner submits that it is a case which has been instituted after a period of two months three days and even though the alleged offences are cognizable in nature, the informant himself says that the police has not registered the case and he was asked to go home which cannot be believed because the informant had not followed the procedures in this regard by sending a copy of the complaint to the Superintendent of police, if the local police station has refused to lodge the FIR.

The emphasis of argument of the learned counsel is that the present FIR is outburst of a counter case which is Bakhtiyarpur P.S. Case No. 239 of 2017 registered on 20.07.2017 in respect of the same offence and occurrence which took place on 23.05.2017. This FIR is prior in time and as per the First Information Report lodged by this petitioner there is specific allegation of assault committed upon the petitioner by the accused including the informant of this case. From perusal of Annexure-2 it would appear that Subhash Mehta (informant) was a member of the mob who has assaulted the present petitioner who suffered



head injuries. As per Annexure-2, Mahesh Mehta had given a blow on the head of the younger brother of present petitioner by iron rod on his head causing head injuries and another accused Vivek Mehta assaulted this petitioner by a Kulhari on his head as a result of which this petitioner fell down and thereafter all the accused persons assaulted the petitioner and his younger brother.

Learned counsel further submits that the injury reports of this petitioner and his brother are Annexure-3 to the present application and perusal thereof would show that all the injuries caused on the head and body of this petitioner were grievous in nature. Two injuries on the body of the brother of this petitioner have been found grievous and in the opinion of doctor, all the injuries would be dangerous to their life.

By showing the documents, learned counsel for the petitioners submits that it seems to be a case of free fight where both the parties assaulted each other and caused injuries to each other because of the land dispute.

Learned counsel submits that this petitioner has got no criminal antecedent at all and, therefore, the allegation that the petitioner is a miscreant kind of person, is false and baseless allegation. He further submits that the statement to this effect has been made categorical in paragraph 3 of the petition. This being a



case arising out of a land dispute. Learned counsel for the petitioner submits that it is not believable that the informant's party could not inform the PMCH Authority and then Paras hospital about the alleged occurrence in which the informant is said to have suffered injuries. Neither in the PMCH nor in the Paras hospital this fact was reported and the present FIR has been lodged by filing a complaint case just to take a defence.

On the other hand, learned counsel representing the Informant has opposed the prayer for bail submitting that the informant was brutally assaulted and this petitioner was one of the persons along with others who had participated in the alleged occurrence. He further submits that this petitioner had given repeated blow on right side of the head and the jaw of the informant which had broken four teeth of the informant. He further submits that the informant was hospitalized firstly in PMCH and seeing his serious condition, he was referred to Paras Hospital where he remained under treatment and could be saved only thereafter the present complaint case was lodged.

Learned counsel for the State opposed the prayer for bail.

I have considered the entire facts and circumstances. It seems that both the parties are co-villagers and are fighting on a



land dispute which led to the present occurrence on 23.05.2017. It also appears that both the parties have suffered injuries and the petitioner and his brother have apparently received grievous injuries as contained in Annexure-3 to the present application. The petitioner is in custody since 08.09.2017 and by now the investigation is over and charge-sheet is said to have been filed against him, whereas the informant and his parties have approached this Court seeking anticipatory bail, which is still pending.

In the nature of the dispute, which is apparently a land dispute and the materials showing that both the parties have indulged in alleged occurrence and have caused injuries to each other. The injury caused to the petitioner and others were also grievous in nature which were found dangerous for the life, suggests that the informant and his parties were also participating in the alleged occurrence as appearing from the records.

Since the investigation is over, and the petitioner has no criminal antecedent, I am inclined to grant regular bail to the petitioner.

Let the petitioner, above named, be enlarged on bail on his furnishing bail bond of Rs.15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of the



learned C.J.M. at Saharsa in connection with Bakhtiyarpur P.S.
Case No.286 of 2017 subject to the following conditions:

(i) The petitioner shall not indulge in similar nature of offence in future and if he is prima-facie found involved in commission of similar offence in future, the informant will have liberty to move this Court for cancellation of his bail.

(ii) The petitioner shall co-operate in conclusion of trial by putting appearance in the court below as and when required and in any case on two consecutive defaults in putting appearance before the trial court on the date fixed in the matter, the trial court would pass an appropriate order for cancellation of bail in accordance with law.

The above conditions shall be in addition to the conditions under Section 437(3) of the Cr.P.C.

The application is allowed in terms indicated herein above.

(Rajeev Ranjan Prasad, J)

Arvind/sushma/-

U		T	
---	--	---	--

