

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59039 of 2018

Arising Out of PS. Case No.-138 Year-2017 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

-
1. Durga Sah, S/o Vinod Sah,
 2. Anil Sah, S/o Bhola Sah, Both are R/o Vill.- Motipur, P.S.-
Tajpur, District- Samastipur.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Rana Sanjay Kumar Singh, Advocate.
For the Opposite Party : Mr. Umanath Mishra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 22-11-2018 Learned counsel for the petitioners seeks permission to withdraw the anticipatory bail application of petitioner no. 1 Durga Sah as he has already been taken into judicial custody in connection with Samastipur Muffasil P.S. Case No. 138 of 2017, pending in the court of learned 5th A.C.J.M. Samastipur.

Permission is accorded.

The anticipatory bail application of petitioner no. 1 Durga Sah is dismissed as withdrawn.

Heard learned counsel for the petitioner no. 2 and learned counsel for the State.

The petitioner no. 2 is apprehending his arrest in a case for the offence registered under Sections 448, 341, 323, 324, 307, 354(B), 504 and 506/34 of the IPC.



The prosecution story, in brief, is that on 15.03.2017 at about 3.00 P.M. Ajit Kumar alongwith his friend Chandan Kumar was going to his village by foot but after some distance of his house, co-accused Sanjeet Kumar came on Motorcycle and dashed him then informant came and pacified the matter. Thereafter co-accused Sanjeet Kumar, Deepak Kumar, Durga Sah and petitioner no. 2 Anil Sah came at his door and abused him then he tried to pacify the matter, in the meantime, all the four accused persons assaulted him on his head and also injured his left hand and right shoulder with *Hockey stick* and he fell down, his wife came to save him then she was also assaulted with other family members.

It has been submitted by learned counsel for the petitioner no. 2 that the petitioner no. 2 has got no criminal antecedent. The petitioner no. 2 has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner no. 2. The alleged occurrence is said to have taken place due to petty reason. Nature of injury is said to be simple. No offence under Section 307 of the IPC is made out. Rests of the offences are triable by the Magistrate.

On behalf of the State, it is submitted that the



petitioner no. 2 is named in the F.I.R.

Considering the aforesaid facts and circumstances, let the petitioner no. 2 (except petitioner no. 1 Durga Sah) in the event of arrest or surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 5th A.C.J.M., Samastipur, in connection with Samastipur Muffasil P.S. Case No. 138 of 2017, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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