

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34690 of 2019

Arising Out of PS. Case No.-311 Year-2018 Thana- MAHUA District- Vaishali

MD. FAYAZ @ MOHAMMAD FAIYAZ Son of Md. Jamir Resident of
Village - Sikandpur Mangrahi, P.S.- Mahua, Distt - Vaishali, Bihar.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Md. Muktar Son of Md. Nayis
3. Md. Nasir Son of Late Md. Habibhullah
4. Md. Sahid Son of Md. Amrul
5. Md. Tabrez Son of Md. Sultan
6. Md. Amrul Son of Md. Ahmad
7. Md. Tammann Son of Md. Nasir
8. Md. Lalbabu @ Md. Rukesh Son of Md. Nayis
All Resident of Village - Sikandpur Mangrahi, P.S.- Mahua, Distt - Vaishali,
Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar
For the Opposite Party/s : Mr. Ramchandra Sahni

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 18-06-2019 This application has been filed for cancellation of the anticipatory bail granted to O.P.nos.2 to 8, vide order dated 16.1.2019 passed by the learned Addl. Sessions Judge cum Special Judge, Vaishali at Hajipur in ABP No.2378 of 2018 in connection with Mahua P.S.Case No.311 of 2018 dated 3.10.2018 for the offences punishable under Sections 341, 323, 504, 506, 354, 379, 307/34 of the Indian Penal Code.

Grounds for cancellation of the bail is that the learned Addl. Sessions Judge has not applied his mind and granted anticipatory bail to O.P.nos. 2 to 8 whereas there is allegation



against the petitioner no.3 (Md. Nasir) that he has assaulted by *rod* on the head of Md. Zahir and the injury of Md. Zahir is grievous in nature, which will appear from Annexure 2 and there are specific allegations against other opposite parties also and furthermore, prayer for anticipatory bail of the co-accused (Md. Soyab) has been rejected by the Addl. Sessions Judge No.-III.

Heard learned APP and the learned counsel for the Opposite Parties. They have opposed the prayer for cancellation of bail on the ground that Md. Soyab , later on , has been granted regular bail by the court below and further there is case and counter case between the parties and the learned Addl. Sessions Judge has granted anticipatory bail, considering the fact that there is case and counter case and the injuries are on both sides as well as injury report was not available, as such there is no illegality in the order granting anticipatory bail to the petitioner.

Having heard both sides and from perusal of the report, it appears that the learned Addl. Sessions Judge has granted anticipatory bail to the O.P.nos.2 to 8 on the ground that there is case and counter case and the injuries are on both sides and further the injury report was not available on the record.



Injury reports have been brought on record by petitioner as Annexure-2 that discloses the injury of one of the co-accused (Md. Zahir) is grievous in nature and the allegation of assault to Md. Zahir is against Md. Nasir, however, so far other injured are concerned, on whom there is allegation of assault on O.P.nos. 2,4, 5, 6, 7 and 8 are simple in nature. As such so far other accused are concerned, learned counsel for the petitioner has failed to produce any paper that the injury caused by accused persons are grievous in nature.

In such view of the matter, O.P.no.3 (Md. Nasir) is concerned, his bail bond is cancelled and he is directed to surrender at once and pray for regular bail, which will be considered on its own merit.

So far O.P.nos. 2, 4, 5, 6, 7 and 8 are concerned, I find no illegality in the order granting anticipatory bail to them.

Accordingly, with above direction, this application is disposed of.

(Vinod Kumar Sinha, J)

chn/-

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

