

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83663 of 2019

Arising Out of PS. Case No.-59 Year-2013 Thana- CHHATAPUR District- Supaul

MD. KURBAN @ JHABRA Son of Md. Kalaf Hussan Resident of Village-
Rampur (Ward No.- 05), P.S.- Chhatapur, District- Supaul.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar Jha, Adv.

For the Opposite Party/s : Mr.Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 17-12-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The instant application for anticipatory bail has been filed by the petitioner apprehending his arrest in connection with Chhatapur P.S. Case No. 59 of 2013, registered for the offence punishable under sections 147, 148, 149, 341, 323, 324, 379 and 504 of the Indian Penal Code.

As per allegation made in the F.I.R., on the date of occurrence while the informant was sitting at the *Darwaja* of his house, the accused persons including the petitioner herein came there, variously armed and surrounded him. It is stated that they started forcing him to accompany them to go to the court to file a compromise petition. Thereafter, it is stated that on the petitioner abusing him and instigating others, he was assaulted



by Lal Mahmad by a *Farsa* as a result of which he sustained injuries. On his younger brother coming to his rescue, he was also assaulted. It is further stated that the accused persons also took away silver ornaments and Rs. 2500/- in cash.

It is submitted by learned counsel for the petitioner that the allegations as narrated in the FIR are false and concocted. The manner of occurrence is not supported by the injury found on the informant as also one another, copies of the injury reports having been brought on record as Annexure 2 series. It is further submitted that no overt act has been alleged against this petitioner, who is only stated to be an order giver. It is also submitted that the petitioner was released by the police on police bail, in course of investigation.

The application for bail is opposed by learned APP for the State, who submits that the petitioner having been released by the police on police bail, in course of investigation, the instant application for anticipatory bail would not be maintainable.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case as also the fact that the petitioner in course of investigation had been released by the police on police bail, in the opinion of this



court, the application for anticipatory bail is not maintainable..

In the instant case, this application for anticipatory bail is disposed of in terms of the decision of this court in the case of Mahendra Prasad Singh Vs. State of Bihar reported in 2004(3)PLJR 491 with the observation that in case the petitioner appears before the court within eight weeks then the court below shall consider his prayer for bail in accordance with law, keeping in view the well established principle that a person, who is already on bail, shall not be denied such privilege unless there is allegation of misuse etc.

The application for anticipatory bail stands disposed of with the above observations and directions.

(Partha Sarthy, J)

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