

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6875 of 2020

Arising Out of PS. Case No.-116 Year-2019 Thana- MAHISHI District- Saharsa

MD. JAMAL Son of Md. Rafik Resident of Village - Lakhni (Lakhnipur),
Ward No. 1, P.S.- Mahishi, District- Saharsa

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bidhan Chandra Jha

For the Opposite Party/s : Mr.Md. Aslam Ansari

Mr. Ashok Chaudhry

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 29-05-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard Shri Bal Krishna Mishra, learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Mahishi P.S. Case No. 116 of 2019 for the offence punishable under Sections 341, 323, 323, 379, 504 and 34 of the Indian Penal Code.

The case of the prosecution, according to the fardbeyan of Khajiza Khatoon, is that on 24.06.2019 at about 15:00 hours while she was filling the soil which had been brought by her by means of a tractor and was kept on the southern side of her house which is a vacant land and in her possession, into her



residential house, the accused persons including the petitioner herein had arrived there and had started abusing her and when she protested, the co-accused persons, Nurjahan Khatoon, caught hold of the cheeks of the informant and started scratching the same and thereafter the accused persons started assaulting the informant by fist and in the meantime, the said co-accused person namely Nurjahan Khatoon and Jarina Khatoon kicked the informant in her stomach resulting in the same causing bleeding to the informant and consequently her three month's foetus got aborted.

The learned counsel for the petitioner has submitted that the petitioner is innocent, is having a clean antecedent, is languishing in custody since 18.10.2019 and has been falsely implicated in the present case. It is further submitted that a bare perusal of the FIR would show that a general and omnibus allegation has been levelled against the petitioner herein and there is no allegation of any sort of overt act as far as the petitioner is concerned.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case and taking into account the submissions advanced by the



learned counsel for the petitioner as also considering the fact that no specific allegation of commission of any sort of overt act has been levelled against the petitioner herein apart from the fact that the petitioner is having a clean antecedent and is languishing in custody since 18.10.2019, I deem it fit and proper to direct for release of the petitioner on regular bail upon him furnishing personal bond to the satisfaction of learned S.D.J.M., Saharsa in connection with Mahishi P.S. Case No. 116 of 2019.

It is further directed that once the lock-down is over and normal situation is restored, the petitioner, above named, shall furnish bail bonds of a sum of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each, within a period of four weeks, to the satisfaction of learned S.D.J.M., Saharsa in connection with Mahishi P.S. Case No. 116 of 2019, failing which the present privilege of bail being extended to the petitioner shall stand revoked automatically.

The present petition stands allowed.

(Mohit Kumar Shah, J)

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