

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20257 of 2020

Arising Out of PS. Case No.-151 Year-2018 Thana- GAMAHARIYA District- Madhepura

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MD. JUBER Son of Md. Habib Resident of Village- Chandanpatti, Ward No.
10, P.S.- Gamharia, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad, Adv.

For the Opposite Party/s : Ms. Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 09-07-2020 The Court proceeding has been conducted through
virtual mode.

Since the physical Court is not functional due to the
present pandemic, Covid-19, the matter has been listed with
defects.

Learned counsel for the petitioner undertakes to
remove the defects within a period of three weeks on
resumption of physical court proceeding.



In case of non-removal of the defects within the undertaken period, the office will place the matter before the bench.

Heard learned counsel for the petitioner and learned APP for the State.

The petitioner apprehends arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 379, 380, 307, 427, 436, 504 and 506 of the Indian Penal Code, 1860.

The prosecution case as per the written report of Md. Halim submitted before the S.H.O., Gamhariya Police Station is to the effect that on 14.09.2018 at 9.00 A.M., the co-accused, Md. Kadir entered into the courtyard of the informant and started taking photographs of the house and threatened to demolish the house of the informant, onn protest being made, 12 accused persons, including the petitioner, came variously armed and carrying kerosene oil and started assaulting the sons of the informant, namely, Md. Mausim and Md. Mauzim and wife of the informant. It is specifically alleged that co-accused, Md. Kadir assaulted with farsa to the son of the informant causing cut injury on his hand whereas other co-accused persons assaulted the wife and other son of the informant and took away



jewellery, cash and other articles from the house of the informant.

It is submitted by learned counsel for the petitioner that in the background of land dispute, the accusation has been levelled against the petitioner. There is a counter version of the occurrence also, being Gamharia P.S. Case No. 152 of 2018, lodged by the petitioner's side. In fact, a prohibitory order has been passed for the construction made by the informant's side on the land in dispute and the photographs of the same was being taken by co-accused, Md. Kadir, then scuffle took place. Moreover, the specific accusation of assault is against co-accused, Md. Kadir. The injury report of Md. Moin who is alleged to have been assaulted by co-accused, Md. Kadir, has been found superficial, simple in nature. Similarly situated co-accused, Md. Habib and Md. Mustuph @ Mustup, have been granted anticipatory bail by a Co-ordinate bench of this Court vide order dated 13.03.2019 passed in Criminal Miscellaneous No. 15482 of 2019. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the petitioner is named in the FIR.



Considering the thrust of accusation against co-accused, the fact that similarly situated co-accused, Md. Kadir Has been granted bail by a Co-ordinate bench of this Court, most of the injuries being found simple in nature coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on anticipatory bail for the present provisionally for a period of three months, in the event of arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing one surety to the satisfaction of the learned Judicial Magistrate, 1st Class, Madhepura, in connection with Gamharia P.S. Case No. 151 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on



furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Madhepura, in connection with Gamharia P.S. Case No. 151 of 2018.

The learned Court below will further be at liberty to extend the period of provisional anticipatory bail further if the court proceeding in physical mode will not resume in next three months.

Accordingly, the present application stands disposed of.

(Dinesh Kumar Singh, J)

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